

SENATE—Monday, May 23, 1994

(Legislative day of Monday, May 16, 1994)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.
Let us observe a moment of silence in memory of Jacqueline Kennedy Onassis, her family, her friends, and the whole world which mourns her loss.
For there is no power but of God: the powers that be are ordained of God.—Romans 13:1.

Commit thy works unto the Lord, and thy thoughts shall be established.—Proverbs 16:3.

Eternal God, we thank Thee for the sovereign order of God—that those who hold public office do so, not simply because they sought it and won—but because God had ordained them for His purpose and plan. And we thank Thee that Thou hast promised to establish their thoughts as they commit their works unto Thee.

Omniscient Lord, Thou knowest each Senator and each staff member in microscopic detail, the circumstances from which each comes; the future unto which each goes, and the present condition of each. And You have a purpose and plan for each. Forgive us, gentle, gracious God, for our indifference, our rejection of Your love, Your care, Your guidance. Awaken us to our need of Thee, our poverty of spirit without Thee, our blindness when we do not walk in Thy light.

We pray in His name who is the Light of the World. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 23, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from the State of Washington [Mrs. MURRAY] is recognized to speak for up to 15 minutes.

RENEWAL OF MOST-FAVORED-NATION STATUS TO THE PEOPLE'S REPUBLIC OF CHINA

Mrs. MURRAY. Mr. President, I rise today to discuss the importance of renewing most-favored-nation trade status to the People's Republic of China.

I grew up watching ships sail out of the great Port of Seattle, taking the finest products of the Pacific Northwest to every corner of the globe. The ships that leave Seattle, Tacoma, Gray's Harbor, and Everett, carry with them ideas as well as goods.

Their cargo is our ambassador. It shows our trading partners what can be achieved when a country enjoys the highest levels of productivity known in the history of civilization.

Throughout this century, the State of Washington has traded with the countries of Asia. The Pike Place Market bustles in Far Eastern dialects and flavors. Seattle's International District is an amazing mixture of Asian cultures, sights, and sounds.

We have a long and rich tradition with the Pacific rim. This tradition culminated in the APEC conference in Seattle last November.

I was a delegate to this historic meeting which brought Pacific leaders together to exchange ideas on international economics as well as politics.

Mr. President, over these many years, the people of Washington State have come to understand the people of Asia. And, international commerce has provided an important bridge between our two continents.

The ideals of our market economy and the foundation of our democracy and freedom are embodied in this commerce.

America's open and free skies allowed the Wright Brothers to invent a

machine that would become this country's No. 1 export.

America's bold entrepreneurship allowed a computer whiz to lead one of the most successful businesses in the world.

Today, the Boeing Co. and the Microsoft Corp. are known around the world for their top-of-the-line products and their made-in-the-USA labels.

And, so is Nic Hanauer's family business, the Pacific Northwest Feather Co. And, Steve Elliott's Seattle Chocolate Co. And, Ken Auld's Chukar Cherries from Prosser. And our famous apples from Wenatchee, and our wines from Yakima.

People's lives in the State of Washington, the economic well-being of the Pacific Northwest, depends on trade with Asia. This trade should be free and unfettered.

The United States should do all it can to alleviate trade barriers. We should relax antiquated export controls. We should insist on respect for our intellectual property rights. We should open markets.

But it is easy to forget the importance of maintaining economic ties when we witness the brutality of political repression.

My State is a pioneer State. The citizens of Washington value their liberty—their ability to express their thoughts without retribution from the government.

We have a proud tradition of tolerance, and we are leaders in the struggle of all people around the world to live with the same basic human rights we enjoy.

I remember growing numb as I watched the tanks roll through Tiananmen Square. I remember explaining to my children that the Chinese Government responded violently to a peaceful demonstration of its own people.

I have not forgotten. To this day, I salute those brave students who stood up for what they believe in—a set of beliefs I share. The freedom of speech, the right of peaceful assembly, the freedom of religion, and the basic liberty of political dissent.

I want human rights for everyone around this globe. I want women and men everywhere to be able to organize and mobilize and express their political views.

And, human rights will come to China. Look at the economic miracle in south China. Look at the free movement of goods and services, and the ideals of political freedom enshrined in that prosperity.

Listen to the 800 Chinese pilots and maintenance personnel who received training through Boeing last year, or the 1,500 Chinese visitors the Boeing Co. received in Seattle last year.

Listen to their stories of hope—of creating a new society in China based on the principles they learned from their American counterparts.

China is a bonanza for American-style business. Thousands of American and other Western entrepreneurs are currently engaged in China, and as they become part of Chinese culture, Beijing will find it impossible to control the spread of ideas. But, Western ideals will only penetrate that country if we are engaged there.

Cutting off trade is not the way to foster these ideals. In fact, if history is a teacher, we can learn that China experienced its darkest period of human rights abuses when that country was isolated from the international community.

How can we expect to foster democracy if we cut off access to American telecommunications? It is far wiser to allow everyone in China access to a telephone, a fax machine, and a computer, if we want to encourage their political mobilization.

I have heard arguments to the contrary here on the Senate floor from colleagues I deeply respect. I think we all want to get to the same end. We want people all over the world to be able to live without fear.

But we disagree on the way to encourage this.

China is an enormous country. We should be pursuing negotiations with that country's leaders on many levels. We need to appeal to China to assist us with ending nuclear proliferation on the Korean peninsula.

We have to work with China to ensure the people of Hong Kong retain their economic and political freedom as their governance changes from the British Commonwealth to the People's Republic of China.

We have to insist the cultures of all ethnic groups in China, including the Tibetans, keeping their integrity.

We have to work with China to improve that country's disastrous record on intellectual property protection.

But revoking, or conditioning, MFN will hurt the very people we want to help most in China. It will also hurt us at home. Let me take a few minutes to describe how an economic reaction in America to a political problem in China will affect everyday people in the State of Washington.

I want everyone in my trade-dependent State to understand the importance of this decision to their lives.

My State is home to the Nation's largest exporter. China has ordered 64 planes from the Boeing Co., sales worth \$3.9 billion. Over the next 15 years, China will order 800 planes worth \$40 billion.

These orders mean jobs, and not just jobs in the Boeing Co. itself. Nearly 100,000 people employed by Boeing support almost another 300,000 jobs. For example, the manufacture of every 777 plane creates 24 longshore jobs at the Port of Everett alone.

If the administration cuts off MFN benefits to China, plane orders will be canceled. So will wheat and apple shipments.

And with these canceled orders, unemployment lines will grow. Farm incomes will wither away, and small businesses will close.

I doubt small business owners in the Puget Sound area would believe that the 1989 uprising in Tiananmen Square would hurt their business. But, in today's global economy, it could.

That is why revoking MFN would be disastrous.

Mr. President, how can I explain to a corner grocer in Everett, or a dry-cleaner in Renton, or a farm supplier in Spokane, that their businesses are closing to improve human rights in China?

Will jeopardizing the well-being of the people of Washington State really improve the internal political situation in China?

And, Mr. President, how can we explain to the Chinese people that they will no longer have access to the American products and ideas they have just begun to embrace?

Isolating China will crush hope. It will abandon China's future to the hard-liners who sent the tanks into Tiananmen.

It will also keep China underdeveloped and unsafe. Let me give you a real example: the Boeing Co. trains pilots, making the skies over that massive country safer. If Boeing cannot operate in that market, training will stop. Flying will remain dangerous, imperiling Chinese passengers, and all foreigners who travel there.

Mr. President, make no mistake about it—I have had my disagreements with Chinese officials.

I have had very frank discussions on intellectual property rights violations with the Chinese Ambassador.

I have encouraged Ambassador Kantor to take a tough stance on China's trade barriers.

I have worked with Secretary Espy to get more agricultural exports from Washington State into China.

Mr. President, I know unilateral American sanctions will not change the political situation of a massive country an ocean away.

That is why I stand ready to work with the administration to fashion a new China policy that will allow negotiations on many fronts, a policy that will encourage human rights in China, arms reduction, protection of ethnic minorities, and a bright economic trading future.

EXTENSION OF MORNING BUSINESS

Mrs. MURRAY. Mr. President, on behalf of the majority leader, I ask unanimous consent that the period for morning business extend not beyond 1 p.m. today, with Senators permitted to speak therein for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO PROCEED TO CONSIDERATION OF H.R. 1933

Mrs. MURRAY. Mr. President, I ask unanimous consent that at 1 p.m. today the Senate proceed to the consideration of H.R. 1933, the Martin Luther King Commission legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

The Senator is advised that we are in morning business, with each Senator limited to 10 minutes during that morning business time.

DRUG ABUSE

Mr. BOND. Mr. President, I take the floor today to discuss one of the most pressing issues facing us in this Nation today: Our country, our communities, and our families. I raise my very serious concern about the Clinton administration's lack of leadership in combating a real source of crime, disruption and dangers in American society, a scourge, if you will. I am here to talk about the great and growing problem of drug abuse.

According to a poll by Peter D. Hart Research Associates, 7 in 10 Americans see drug abuse as a greater problem now than it was 5 years ago. Only 5 percent believe elected officials are doing everything possible to solve the problem.

Now, on other issues, I have watched the President, assisted by his pollster, Stan Greenberg, eagerly respond to citizens' concerns. That is why I am so surprised, at a time when the President has been very vocal about the dangers of misusing guns, there has been no comparable rhetoric on the equally, if not more, deadly misuse of drugs.

President Clinton's deafening silence on the death issue is, most unfortunately, consistent with his administra-

tion's abdication of its responsibility to fight at the front lines in the war against drugs.

Since taking office, the President has slashed the Drug Czar's office by 84 percent and slashed the State Department's international narcotics matters budget by 32 percent over the last 2 years.

In its current budget, the administration seeks to eliminate drug enforcement grants to State and local governments. These enforcement funds support many important drug fighting initiatives including multijurisdictional drug teams that have disrupted State and regional trafficking networks across the country, street-level enforcement teams that shut down neighborhood drug dens, police in the community, drug courts, prosecution programs, drug crime laboratories, and treatment for drug offenders.

I also read in an op-ed piece by Lally Weymouth in the Washington Post last Friday that the Clinton administration has stopped providing real time information on potential drug flights in Latin American countries which we, in the past, have worked out as a means of assisting those countries which are dedicated to helping eradicate drug production and export from their countries. At a time when the administration says that we are going to work with source countries, it makes no sense for us to stop providing the real time information that has been so vital in helping combat those dangers.

Now, all of these efforts which have gone on in the past and which are being restricted or eliminated now cannot be replaced simply by having cops walk the beat in major cities. It is simply not fair to ask law enforcement to fight a war on drugs at the local level even as we take away some of their effective weapons against interstate and international drug operations and cartels.

Last month, I had the opportunity to address an outstanding group of law enforcement officers, local, State, and Federal, who have worked together in the last several years to combat the scourge of drug crime in southeast Missouri. I told these law enforcement officers it had been suggested that we cut the Federal law enforcement activities and use some of those moneys to provide local law enforcement support, maybe providing them enough funds for another cop on the beat.

All of these officers—and this is State and local as well as Federal—said that it was impossible for them to carry on the battle against drugs if they did not have the strong interdiction efforts that the Federal Government puts forth, along with the coordinated assistance of all of the Federal agencies given a responsibility to deal with drugs, from the Customs Service with their interdiction activities and their ability to identify drug runners

at the border and follow them to the sources.

They said that they could not achieve any kind of success in the battle on drugs if we took away the assistance that the Federal Government provides in dealing with interstate and international drug conspiracies.

I received a letter in response to my request, authored by the chief of the Cape Girardeau Police Department and Sheriff Norman Copeland, a 30-year veteran of the Missouri Highway Patrol and well respected officer and now the elected sheriff of Scott County. It is signed by sheriffs, by county, by city police chiefs, and by a member of the State highway patrol.

They state in that letter that they:

*** voice our concerns about what appears to be a casual and unconcerned attitude toward the drug problem among leaders in Federal Government. As frontline observers, we can state unequivocally that the alarming rise in domestic crime across the United States, both violent and nonviolent, is primarily due to illegal drugs, their distribution, use, and addiction to drugs. We believe with passion that no one can calculate what the enormity of the drug problem would be today if no drug interdiction or education programs had been in place for the last 5 years. Further, there is a dire need to maintain and fine tune the programs that are now in place. The so-called war on drugs has only been waged seriously for the last 5 years, although it has taken us approximately 30 years to reach such epidemic proportions—and it may take that long to remedy it. Our belief is that it doesn't matter if we win or lose this war, but is it right or wrong to fight it? We believe it is right to want to live in a community that is drug free, in a home in which we feel safe, and be able to tell our children it is wrong to abuse their bodies with illegal drugs. Winning the war is not as important as fighting the war. We support these beliefs as a group and they are shared by all of law enforcement in southeast Missouri.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD, along with an article, endorsed by many of the law enforcement officers, by Alan Foust, Coordinator of the Southeast Missouri Task Force which appeared in the Trooper Association Magazine entitled "Legalized Drugs."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLICE DEPARTMENT,

Cape Girardeau, March 30, 1994.

Hon. CHRISTOPHER S. BOND,

U.S. Senator, Russell Office Building, Washington, DC.

DEAR SENATOR BOND: I would like to express my appreciation for being invited to discuss concerns among law enforcement officials with you on Tuesday, March 29. I have followed your career throughout your public life and have nothing but the greatest admiration for you and your efforts on the part of the citizens of Missouri.

I would like to briefly summarize some of the thoughts that I shared with you yesterday. Myself and Lt. Jim McNeill of the Missouri State Highway Patrol were invited to Key West Florida as guests of the Assistant

Secretary of Defense to tour military installations utilizing reserve components. As a part of the briefing we were given an opportunity to talk to Commander Joint Task Force Four personnel who have the counter drug mission responsibility for tracking couriers into the United States, as well as U.S. Coast Guard personnel that do the actual High Seas interdiction, search and seizure. All of the people we spoke with are dismayed at the impending cuts to these efforts and the negative impact it will have on counter drug operations.

I am also concerned about the amount of money being taken from law enforcement efforts and being funneled into drug treatment programs. My personal belief and the thoughts shared by many of my contemporaries is that drug rehabilitation is a naturally occurring process and no amount of federal dollars can speed up the process.

We also would like to take this opportunity to voice our concerns about what appears to be a casual and unconcerned attitude toward the drug problem among leaders in federal government. As front line observers, we can state unequivocally that the alarming rise in domestic crime across the United States, both violent and non-violent, is primarily due to illegal drugs, their distribution, use, and addiction to the drugs. We believe with passion that no one can calculate what the enormity of the drug problem would be today if no drug interdiction or education programs had been in place for the last five years. Further there is a dire need to maintain and fine tune the programs that are now in place. The so called war on drugs has only been waged seriously for the last five years, although it has taken us approximately thirty years to reach such epidemic proportions—and it may take that long to remedy it. Our relief is that it doesn't matter if we win or lose this war, but is it right or wrong to fight it. We believe it is right to want to live in a community that is drug free, in a home in which we feel safe, and be able to tell our children it is wrong to abuse their bodies with illegal drugs. Winning the war is not as important as fighting the war. We support these beliefs as a group and they are shared by all of law enforcement in Southeast Missouri.

We want to personally thank you for your support of law enforcement—specifically the support you have given to the Southeast Missouri Drug Task Force—the establishing of the United States Attorney's Office in Cape Girardeau, and the recent opportunity you gave us to speak to you in Cape Girardeau.

Sincerely,

NORMAN COPELAND,

President, Cape Girardeau County Sheriff.

Chief JAMES W. LEIST,

Secretary/Treasurer, Sikeston Department of Public Safety.

Sheriff GARY SCHAAF,

Board Member, Perry County Sheriff.

Chief BILL ADAMS,

Board Member, Poplar Bluff Police Department.

WILLIAM F. FERRELL,

Vice-President, Scott County Sheriff.

Chief HOWARD H. BOYD, Jr.,

Board Member, Cape Girardeau Police Department.

Chief ROBERT RITCHEY,

Board Member, Charleston Department of Public Safety.

Sergeant A.W. FOUST,

Coordinator, Missouri State Highway Patrol.

[From the Trooper Association Magazine]

LEGALIZE DRUGS?

(By Alan Foust)

I have been a state narcotic investigator for eight years, assigned for over two years to deep-cover narcotics and afterwards to several short term undercover investigations in which I was directly exposed to the drug culture. For the last four years I have supervised a narcotics unit and been a trainer to others in narcotics investigation. I have experienced the drug problem in every conceivable fashion except as an addict, and I have uniquely experienced their pain as well. I guess you could say I am a front line observer that has a unique perspective and insight into the drug culture and related social problems. I have developed some hardened ideals about the drug problem that are in stark contrast to the ideals of some editorialists and others who advocate the decriminalization and legalization of drugs.

I hear the arguments that the drug war is like the Vietnam war and unwinnable; that the problem is too overwhelming; that drugs are no worse than alcohol and should be legalized; that decriminalizing drugs "would cut street crime by 75 percent"; that drug interdiction and education efforts are a total failure.

And I have to ask, if we did legalize drugs, would we legalize all drugs in any purity and sell them to any individual? Or would we have restrictions on youth, pregnant mothers and professionals such as doctors, police officers, airline pilots, et cetera? Would we sell pure heroin and pure cocaine? Would we legally sell crack cocaine? Or would we just sell the cocaine and let the street dealers convert it to the smokable form of crack as they do now? How do you establish an acceptable, legitimate source of harmful drugs in a society as complex as ours without restrictions? Can an acceptable system be set up without black markets controlled by the criminal element who have traditionally taken advantage and made money from society's weaknesses?

Is the drug problem similar to the alcohol abuse problem and the related failure to prohibit alcohol consumption? I have met many functional alcoholics, people who have drunk for years, but I have never met a functional drug addict. Drugs are an acid that eat the mind, and in a very short time consume the user's life until nothing else exists. I have intimately known many individuals that have met this monster and according to their own testimonials, they have all lost the battle.

Is it even a drug problem? Could it simply be a crime problem, an economic problem or is there an underlying cause that we fail or refuse to recognize? In 1991, 707,502 babies were born to single white women, representing 22 percent of births. Sixty-eight percent of all black births and often some 80 percent of all births in inner-cities are born to unmarried mothers. Illegitimacy is probably the single most important social problem of our time—more important than drugs, poverty, illiteracy, welfare or homelessness—because it drives everything else. In the next decade I believe we will lose large portions of some of our major inner-cities, not due to drugs, which is a side note, but because of a larger social problem consisting of a large culture of unsocialized male adolescents where physical violence and immediate gratification is common place. If we continue to support illegitimacy through social welfare programs this condition will worsen and consequently so will the drug problem.

As Americans we are part of an impatient, quick-fix society. We traditionally become

intensely interested in short-term problems and causes. But in longer relationships we become bored turning our attention to newer and more pressing issues. In 1962 only one-half of one percent of the U.S. population used an illicit drug and that included marijuana. Though it varies according to the statistics you use, we now have about 35 million drug users. It has taken us 30 years to reach this epidemic level of drug abuse and we have only recognized and decided to fight a limited war against drug abuse for the last ten years. Five years ago there were no television commercials telling us that cocaine can kill and the seriousness of marijuana use is still not shared with the public by the media even though there have been over 3000 separate scientific studies documenting its devastating effect on the body (far more research has been done on cannabis than any other illegal drug). And where is the empirical evidence that the drug interdiction efforts have failed? Who can accurately answer the question of how big and how bad would the drug problem be if we had not developed and maintained our interdiction efforts to this date? Is thirty-five billion dollars a year too much to spend on law enforcement (we spend more than that on personal toiletries each year)?

Instead of making a vain attempt to parallel the drug war with a fighting war that ended almost 20 years ago, one that we still, for some reason, use for validation, we must instead maintain our moral imperative and ask the question, what is right? Is it right to tell our children one day that it is wrong to use drugs and to tell them the next day that we were wrong and it is alright to abuse and violate their bodies with drugs? Is it right to give up because we might lose the war or is it more important to fight the war no matter if we win or lose, no matter if it take another thirty years to win? We all have the responsibility to do all that we can about the situation we have allowed to happen. If every affected element of our society—parents, schools, business, law-enforcement, the judiciary, legislative bodies, public health, the military, the media and entertainment industry—made a determined decision that drug abuse was absolutely unacceptable in our society and worked together in searching for the roots to the problem and relentlessly provided solutions for those problem areas, we would win this war. And I ask, what is the alternative?

Mr. BOND. Mr. President, I am sympathetic to arguments that a comprehensive drug policy requires drug treatment on demand, and I am committed to finding ways to help those who have the courage to kick their addiction, but I would point out that these law enforcement officers have shared their belief that "drug rehabilitation is a naturally occurring process and no amount of Federal dollars can speed up the process."

It is certainly not scientifically accurate, but I would just state to my colleagues that in the hearings in the Labor, HHS Appropriations Subcommittee, when we had before us the Commissioner of Social Security, we inquired about the effectiveness of the SSI, supplemental security income payments to drug and alcohol abusers. We asked if they knew what the rate of success in treating them had been under that particular program. As I un-

derstand it, the example that they cited was a study of 197 people who had been on the program.

As I recall the statistics, they said that of the 197 people that had been on for 3 years, 20 percent had actually left the program; 10 percent died; 10 percent went to prison; and 1 person was cured. That raises a real question in my mind about the efficacy of our current programs to deal with the problem of drug abuse by rehabilitation alone.

I cannot stand by and watch the Clinton administration cut funding for drug-related crime fighting and interdiction by nearly 2 percent below its 1993 levels. Such cuts merely send a clear signal to drug cartels that we are backing off the fight, in order to treat the wounded.

Drug interdiction and other supply initiatives are vital parts of helping our country become drug-free. Representative CHARLES RANGEL, former chairman of the House Select Committee on Narcotics, and Representative BENJAMIN GILMAN, former vice chairman of the committee, argue persuasively that if interdiction is allowed to lag, the result inevitably will be more and cheaper drugs on the street. Exclusive reliance on demand-side measures ignores the relationship between drug availability and drug use.

And hard numbers demonstrate that drug interdiction is working. Between 1987 and 1991, 552 metric tons of cocaine were seized in Latin America alone; during the same period, the percentage of cocaine users in the United States dropped by more than half. Less easily quantified, but no less important, is the deterrent effect of interdiction. The threat of drug seizures by U.S. authorities deters importation or manufacture of an indeterminate but by no means insignificant amount of drugs. Similarly, interdiction imposes added costs of traffickers for the shipments they do make, and results in drugs on the street being more expensive, and therefore less readily obtainable.

But I fear that the President's abdication of leadership on the drug issue extends far beyond these economic realities and the numbers on a budget sheet. President Clinton, who has been willing to use the Presidency's bully pulpit in a variety of visible and creative ways, has exhibited obvious reluctance to tell our Nation's youth—strongly and unequivocally—that drug use is as wrong as it is illegal. And we need his leadership now. According to a 1994 Monitoring the Future study, the proportion of teenagers who believe that regular marijuana use is risky has fallen from 79 percent in 1991 to 73 percent in 1993, even as the proportion of eighth graders using marijuana has increased by 50 percent in the last 2 years, from 6.2 to 9.2 percent. Using the Presidency's bully pulpit is one of the most effective ways to counteract the softening social norms against drug

use. I suggest that the President use his next appearance on MTV to do just that.

Opponents of the Reagan administration's policy attempted to make fun of Mrs. Reagan's program of "Just Say No To Drugs." But, at least, Mr. President, somebody was trying to get the message across. Now we are not hearing that message.

I fear President Clinton's credibility in arguing effectively against drug use is seriously impaired, as long as he continues to support a Surgeon General who has repeatedly advocated drug legalization. His continuing expressions of confidence in Dr. Joycelyn Elders must lead Americans to wonder just how committed he is to ensuring that drug use both remains illegal and frowned upon in pop culture. His influence here is immeasurable, and he can make it either a positive force or a negative force. This leadership vacuum on the part of the President and the Surgeon General becomes all the more deplorable in light of the fact that drug use is known, and has been amply demonstrated, to have harmful effects on human beings. One need look no farther than the tragedy of the crack baby epidemic which rages every day in the hospital delivery rooms of America. Far more quickly and to a far greater extent than either alcohol or tobacco, illegal drugs like crack cocaine form addictions that cripple the drug user—physically, mentally, and spiritually. Many of those in the throes of a drug addiction can think of nothing but how they will satisfy an insatiable need for another "hit" of their drug of choice. Mothers desert their toddlers, children kill their parents, young men and women throw away promising futures—all because of a degrading obsession. Indeed, the Office of National Drug Control Policy reported this year that the crack epidemic tripled the number of New York City's child abuse and neglect cases in the late 1980's.

To make drugs cheaper and more readily available is to promote to the social pathology and human tragedy of physical and mental illnesses caused by drug usage. This fact alone, in my view, is sufficient argument to reject any efforts whatsoever to decriminalize drugs. I only wish that the President would step forward and affirm his agreement with this conclusion—if indeed he shares my conviction on this point.

In conclusion, contrary to what many would suggest, drug abuse is a hardly victimless crime. A 1991 survey of State prisons reveals that fully one-third of State prison inmates say that they were under the influence of drugs when they committed a crime for which they were in prison. One in four women and one in six men actually committed the offense for money with which to buy drugs.

Mr. President, from my own experience as Governor of the State of Mis-

souri, we estimated that anywhere between two-thirds and three-quarters of the inmates of our State prisons were drug users, either having committed crimes directly related to drug use, or under the influence of or use at a time when they were abusing drugs.

Clearly, this is a problem that we all face. We must work together quickly and vigorously—even as we reach out with compassion to those who are addicted—to ensure that we can catch and punish those who profit by bringing these illegal drugs into our communities.

There is no substitute for continuing the effort. Drug rehabilitation alone is not going to be the answer. When the President tells us he is going to rely on interdiction in the source countries, the activities in cutting off the information sharing on airline flights, the failure to increase significantly the money spent on drug abuse activities, and drug suppression in other countries belies the notion that they truly believe that that can have an impact.

As the men and women who are on the frontline of drug abuse fights will tell you, there is no substitute for strong interdiction efforts, and a strong Federal partnership with State and local law enforcement officials who, without the Federal Government's help, are unable to stem the growing menace of drug abuse and drug crime in their communities.

Mr. President, I thank the Chair.

TRIBUTE TO MRS. BETTY L. TIAN TI

Mr. LIEBERMAN. Mr. President, I rise today before you to honor Mrs. Betty L. Tianti, the Nation's first female president of a State labor federation and Connecticut's first labor commissioner. Mrs. Tianti died on May 16, 1994.

After attending the University of Connecticut and the University of Massachusetts, Mrs. Tianti began her career at the American Thread Co. factory in Willimantic in 1956 and became president of her local union. From 1962 to 1970, she served as an organizer for the union, both in New England and in the South, as well as assistant director of the Textile Worker Union's Committee on Political Education, otherwise known as COPE.

From 1970 to 1974, Mrs. Tianti served as an assistant agent for the Connecticut State Board of Labor Relations. She then became director of the Connecticut State AFL-CIO's COPE. In 1979, she became the federation's secretary-treasurer until 1985.

In 1985, Mrs. Tianti was elected as president of the Connecticut State AFL-CIO and served until 1988 when Governor William A. O'Neill named her as Connecticut's labor commissioner.

Mrs. Betty Tianti has made a significant contribution to the State of Con-

necticut and to the labor movement. Her dedicated service should be commemorated and appreciated on the sad occasion of her death. I salute Mrs. Tianti as a pioneer and a courageous leader.

WE THE PEOPLE *** THE CITIZEN AND THE CONSTITUTION NATIONAL FINALS 1994

Mrs. MURRAY. Mr. President, on April 30 to May 2, 1994, more than 1,200 students from 47 States and the District of Columbia were in our Nation's Capital to compete in the national finals of the We the People *** The Citizen and the Constitution program. I am proud to announce that the class from Kelso High School from the town of Kelso, represented Washington State's Third Congressional District. These young scholars worked diligently to reach the national finals by winning local competitions in our home State.

The distinguished members of the team who represented Washington are: Ryan Basom, Melissa Batchelor, Jessica Berglund, Amber Caven, Amy Durden, Jill Elliot, Amy Gilmore, Josh Jones, Lynette Ledgerwood, Kristen Longman, Siri McElliot, Amy O'Neill, Alison Waite, Linsey Ward.

I would also like to recognize their teacher, Kay Stern, who deserves much of the credit for the success of the team. Ms. Stern, the district coordinator, together with Kathy Hand, the State coordinator, have both contributed a significant amount of time and effort to help the team reach the national finals.

The We the People *** The Citizen and the Constitution program, supported and funded by Congress, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civil Education, the program, now in its 7th year, has reached more than 20,100,000 elementary, middle, and high schools nationwide. The We the People *** the Citizen and the Constitution program provides an excellent opportunity for students to gain an informed perspective of the significance of the U.S. Constitution and its place in our history and our lives. I applaud their accomplishments and congratulate them on their success in the national finals. I wish these young people the best of luck in the years ahead.

SENATE ACTION ON SATELLITE COMPULSORY LICENSE EXTENSION ACT OF 1994

Mr. LEAHY. Last week the Congress took another important step toward extending the Satellite Home Viewer Act when the Senate passed S. 1485, the Satellite Compulsory License Extension Act. This bill will extend the statutory compulsory copyright license for satellite home viewing for another 5 years.

When I announced my cosponsorship of this bill on March 3, I came to the Senate floor and asked my colleagues to move promptly to reassure the thousands of families in Vermont and millions of households nationwide that their home satellite dishes would not go dark at the end of this year. Well, the Senate has acted. I rise to thank my Senate colleagues for their attention to this important measure.

In the last 10 weeks, under the able leadership of Senator DECONCINI, the Senate Subcommittee on Patents, Copyrights and Trademarks marked up the bill and passed it unanimously, the Senate Judiciary Committee unanimously reported it favorably to the full Senate and now the Senate has passed it by voice vote and without objection.

I now urge our House colleagues to act promptly and adopt this consensus bill. It is important that Congress assure those people who receive programming for satellite services that this bill will pass and be signed into law before the expiration of affiliates that the bill clarify their status so that they can provide the largest viewing audience with professional football telecasts starting late this summer. Time remains of the essence.

There is every reason for Congress to complete action promptly on this bill. It should not be subject to delay. The legislative docket is increasingly being filled with matters that will soon require our full attention. The crime bill, health care reform, a Supreme Court nomination, and appropriation bills all will require our time in the weeks ahead. I urge our friends in the House to consider and adopt the Senate bill and eliminate any need for a conference so that this legislation can be sent to the President without further delay.

I will continue working for uninterrupted service to the thousands of viewers in mountainous or remote regions of Vermont who would be unserved were it not for satellite reception. I thank my colleagues for their interest in ensuring that our constituents in rural areas have this opportunity to participate by satellite in the widest possible array of news, sports, entertainment, educational, and informational programming.

TRIBUTE TO RICHARD P. POWERS

Mr. WELLSTONE. Mr. President, I rise today to remember and honor a

distinguished journalist, Richard P. Powers, who recently passed away at the age of 88.

Members of Richard Powers' family live in Minnesota. His daughter, Jane Powers, has shared with me her memories of her father's love of the U.S. Senate and House of Representatives, where he worked for many years as a journalist with the Associated Press, and his fond memories of working with some of the giants of the Senate including Vice President Hubert Humphrey.

Shelia and I extend our sympathies to Richard Powers' family. I ask to have included in the RECORD the obituary that was published in the Washington Post earlier this year at the time of Richard P. Powers' passing.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

RICHARD P. POWERS DIES; CORRESPONDENT FOR AP

Richard P. Powers, 88, a retired Capitol Hill correspondent for the Associated Press, died of a heart attack March 30 at Suburban Hospital.

Mr. Powers, who was stricken at his residence in Bethesda, was born in Chippewa Falls, Wis. He graduated from the University of Minnesota in 1929 and joined the AP in Minneapolis.

In 1939, Mr. Powers transferred to Bismarck, N.D., where he was manager of the AP bureau.

Mr. Powers came to Washington in 1942 and covered congressional delegations from Minnesota, Wisconsin, Michigan and North and South Dakota until he retired in 1970.

Mr. Powers was a member of Bradley Hills Presbyterian Church in Bethesda.

Survivors include his wife of 61 years, Gladys E. Powers of Bethesda; two children, John R. Powers of Princeton, N.J., and Jane E. Powers of Minneapolis; a sister, Mary P. Sanders of Chicago; and three grandchildren.

TRIBUTE TO JACKIE ONASSIS

Mr. DOLE. Mr. President, few Americans ever received more public and media attention in their adult life than Jacqueline Kennedy Onassis.

And few Americans ever handled that attention with as much dignity and grace as Mrs. Onassis.

I join with all Members of the Senate, in mourning the untimely passing of Mrs. Onassis, and in extending our sympathies to her family, and to her former brother-in-law, our colleague, Senator EDWARD KENNEDY.

Like all Americans, I will always remember the remarkable courage Mrs. Onassis exhibited in the very emotional days following the tragic death of President Kennedy.

Instead of Mrs. Onassis leaning on others for support during her time of grief, she provided support for an entire Nation.

Mrs. Onassis will also be remembered for the style she brought to the White House during her years as First Lady. Her vision of the White House was that

it should be a showplace for American culture. And all the First Ladies who have followed Mrs. Onassis have acknowledged the difference she made as First Lady.

Again, Mr. President, I join in mourning the passing of a woman who graced history, and who touched the hearts of millions of men and women around the world.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at \$4,589,268,567,599.52 as of the close of business yesterday, Friday, May 20. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is \$17,602.90.

TRIBUTE TO STAGE EMPLOYEES LOCAL NO 21, 100TH ANNIVERSARY

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the members of Local 21 of the International Alliance of Theatrical Stage Employees and Motion Picture Machine Operators, which will proudly celebrate its 100th anniversary on July 1 of this year, and I am pleased to share with you a bit of their remarkable history in the labor movement.

Since their inception in 1894, the stagehands have demonstrated an outstanding commitment to the development of the American theater. From traveling theaters to the birth of the movie projector just after the turn of the century, stagehands dedicated themselves to becoming skilled laborers. Although they suffered from several setbacks when the film industry moved from its birthplace of Edison, N.J., to California, local 21 managed to rebound by involving itself in the new prosperity of burlesque and vaudeville in the 20th century.

In later years, as theaters like the Paper Mill Playhouse and the Newark Symphony Hall regained their earlier popularity with revivals of old productions, the stagehands of local 21 reestablished themselves in New Jersey theatrical productions.

With their attention to detail, their knowledge of the history of live entertainment, and most importantly, their cooperation with one another, the members of local 21 have survived as one of the oldest labor organizations in New Jersey. I am proud to acknowledge and praise their work. They represent the proudest traditions of organized labor: Hard work, longevity, and ultimately, success. I congratulate every member, and wish them another 100 years of prosperity.

TRIBUTE TO THE ESTABLISHMENT OF A CULTURAL EXCHANGE

Mr. LAUTENBERG. Mr. President, I rise today to call to the attention of the Senate the establishment of a formal relationship between the township of Princeton, NJ, and the village of Pettoranello, Italy.

I must commend the citizens of both communities who worked to establish this sister-city relationship. This special link will increase communication and encourage future visits between the citizens of each town. There is no doubt that this exciting cultural exchange will provide those from both countries with an enriching experience that will last a lifetime.

This program demonstrates the importance of understanding and accepting those from a variety of backgrounds. The globe has become a much smaller place because of explosive developments in technology. Therefore, we must take advantage of these developments by striving to better our understanding of those with whom we share the world. The sister-city relationship between the township of Princeton, NJ and Pettoranello, Italy, demonstrates a commitment to that exact goal.

I applaud and salute all of you for your efforts.

TRIBUTE TO PATRICK A. TUCKER

Mr. WARNER. Mr. President, I rise today to pay tribute to an outstanding professional who served with distinction as a member of the Senate Armed Services Committee staff, Patrick A. Tucker.

For almost a decade, members of the Armed Services Committee and, indeed, the Senate as a whole, benefited from the invaluable knowledge and wise counsel of Pat Tucker. He joined the Senate in May 1983, serving as counsel for the majority to Chairman John Tower. In 1985, Pat's proven talents and can-do approach earned him a promotion to general counsel when our friend and former colleague, Barry Goldwater, became chairman of the committee. As ranking member, I was delighted to name Pat to the post of minority counsel in January 1987. In December of the following year, Pat assumed the dual position of staff direc-

tor and counsel where he remained until January 1993. From then until he retired from the Hill at the end of last year, I was privileged to have Pat's counsel on my personal staff.

Pat's keen knowledge and interest in military matters came to him firsthand. Born and raised in Beckley, WV, Pat entered Virginia Polytechnic Institute on an Air Force ROTC scholarship. He earned a bachelor of science degree in public administration in 1969 and was commissioned in the U.S. Air Force. While on an extended delay from active duty, Pat entered the National Law Center at George Washington University, earning his J.D. with honors in 1972. After graduation, Pat served on active duty as an Air Force judge advocate in various assignments including area defense counsel in Southeast Asia, staff judge advocate to a general officer command, and appellate defense counsel at Air Force headquarters in Washington.

Leaving active duty in 1980, Pat accepted a position as attorney-advisor for legislation with the Department of the Air Force. Pat is presently a lieutenant colonel in the Air Force Reserve.

Pat's service to me, to the Senate Armed Services Committee, to the Senate and to the Nation has been invaluable. As the staff director of the Armed Services Committee, he provided extraordinary leadership for the Republican staff. His ability and professionalism, knowledge and negotiating skills earned him the admiration and respect of all those who were privileged to work with him. His advice and counsel, especially on the more technical and complex aspects of the rules of the Senate, were continually sought by Senators from both sides of the aisle.

The roster of issues on which Pat's advice and counsel were of foremost assistance to me is a lengthy one: the National Missile Defense Act; military retirement reform and CHAMPUS reform; the Montgomery G.I. bill; my efforts in 1989 to amend the War Powers Act; and, perhaps most significantly, the resolution giving the President the authority to use military force in the Persian Gulf war.

During the year that Pat served as my counsel on my personal staff, he provided me with sound advice, and the benefit of his extensive knowledge and experience on a full range of defense, national security, and domestic issues. He became as indispensable to my staff as he has always been to me.

Mr. President, it would require pages to do justice to the many accomplishments of this talented, dedicated, and versatile individual. While the Senate Armed Services Committee is fortunate to enjoy the services of many outstanding, well-qualified staff professionals, Pat Tucker's skills and abilities are extraordinary even among

these. The breadth and depth of his knowledge and experience are matched by keenness of judgment, a strong sense of personal confidence, and unwavering love for his country. These attributes coupled with his sharp wit and good humor made him an exceptional advisor and an extremely effective counsel.

I know that my colleagues are pleased to join me in extending appreciation and best wishes to Pat as he embarks on his third career—first the Air Force, then the Senate, and now the private sector. Pat, you have served your Nation well and I know you will continue to do so.

In closing, I would like to share with my colleagues the simple but compelling words which Pat spoke to his fellow staffers as he was preparing to depart. They were uplifting in the way that only encouragement from a fellow in the trenches can be, "What you do in the Senate is important. It really matters, and it does make a difference in what happens in the best interests of our country."

DRUGS AND HAITI

Mr. DOLE. Mr. President, some involved in the administration's Haiti policy are shopping for an invasion rationale, and they ended up at the narcotics counter. This is a new twist to President Clinton's foreign policy—looking for reasons to invade a country. According to recent news reports, United States government agencies have been tasked to find evidence that would justify United States military action in Haiti to fight narcotics smuggling. It seems to me that an island under blockade is not a very good drug transshipment point, if you have ships all around the island. But despite the obvious, the administration has begun a fishing expedition.

The administration does not need to look any farther than the State Department's April 1994 Comprehensive Report on International Narcotics. On page 191, it says,

Compared to trafficking indicators in other areas such as the Bahamas or Mexico, the current level of detected air and maritime drug-related activity in Haiti is low.

On page 192, the report goes on to say the United States government "does not have evidence directly linking senior [government of Haiti] officials to drug trafficking * * *"

Activity is comparatively low, and there is no evidence of direct complicity. The record seems pretty clear—an invasion in search of a reason would be hard pressed to use Haitian drug smuggling. Any level of drug smuggling is unacceptable but, based on the State Department's own evidence, invasions of Colombia or the Bahamas would do more to slow the drug trade than an invasion of Haiti.

Some have tried to compare Haiti to Panama. Haiti is not Panama. Months

before Operation Just Cause in Panama, Noriega had been indicted in the United States—an indictment that later led to a conviction. There are no indictments in Haiti. In Panama, American lives were at risk. In Haiti, I know of no threat to Americans from the military regime. On Panama, the Senate passed numerous resolutions opposed to Noriega, and urging more United States action from 1987 to 1989. On Haiti last year, we passed an amendment calling for congressional authorization before military action by a vote of 98-2.

Haiti's military regime is despicable, but blaming them for the narcotics problem in the United States is particularly ironic from an administration that gutted the Drug Czar's office, downgraded the State Department's international antidrug efforts, and is reducing drug enforcement administration personnel.

If the administration wants to fight narcotics coming into the United States, there is much to do without invading Haiti. And if the administration really wants to build a domestic consensus over its Haiti policy, it should join with Congress in appointing an independent commission to evaluate the situation, not raise the false flag of narcotics trafficking.

I would just say as far as the independent Commission is concerned it has been done in the past. We did it 10 years ago in Central America, looking at 5 different countries at the time. It was a bipartisan Commission headed by former Secretary of State Henry Kissinger and former Ambassador Robert Strauss. It was nonpartisan. They know the specific interests in the area. They made a number of good recommendations to the Reagan administration, many of which were later followed and I think the value of that Commission was demonstrated recently in the free election in El Salvador.

So, I just hope that we could have a commission that could work with Mr. Bill Gray, who is highly respected, known by all of us. In my view that would be very helpful to find some nonpartisan approach to what should be done in Haiti because I believe the people are really suffering, the poorest of the poor. It is not the military, not the middle class, not the upper class. It is the poorest of the poor. It is also in my view that by tightening sanctions we in effect are punishing the wrong people. We are not punishing the military. They are going to be taken care of. They will take care of themselves. If you noticed the picture in Sunday's Washington Post of the poor starving or hungry children in Haiti, then I think our policy is wrong. If we are going to drive them into boats and the boats have no place to go, they are going to return to Haiti. It seems to me, there must be a better way, and I

hope we can find a better way in a bipartisan effort.

I ask unanimous consent to print in the RECORD the comments from the International Narcotics Control Strategy Report of April 1994.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES DEPARTMENT OF STATE, BUREAU OF INTERNATIONAL NARCOTICS MATTERS—INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT—APRIL 1994

HAITI

I. Summary

Haiti continues to be used by Colombian trafficking organizations as a base of operations and transshipment point for the movement of South American cocaine to the United States. The Government of Haiti (GOH) has had little success in attacking the problem and clearly has an inadequate interdiction and enforcement capability.

Compared to trafficking indicators in other areas such as The Bahamas or Mexico, the current level of detected air and maritime drug-related activity in Haiti is low. We do not have an accurate assessment, however, of the extent of cocaine transiting Haiti. Our best estimate is that one or more multi-hundred kilogram loads pass through the country monthly. President Aristide's ouster in the September 1991 coup d'etat halted close bilateral narcotics control cooperation in Haiti, which in turn reduced opportunities to enhance host government capabilities.

Note: In this report, GOH and host country refer to the *de facto* government which the USG does not recognize.

II. Status of country

Haiti's geographic location between Colombia and the US, coupled with a long, unpatrolled coastline and mountainous interior and the presence of numerous uncontrolled airstrips make the country an ideal site for illicit narcotics trafficking. Inadequate enforcement and interdiction and the susceptibility of Haitian officials to corruption make Haiti even more desirable for traffickers. As a result, Colombian trafficking organizations are using Haiti as a transshipment and storage point. Marijuana is also transshipped through Haiti, but to a lesser degree than cocaine.

The *de facto* government maintains the same antidrug policies and bureaucratic mechanisms as the Aristide government. Counternarcotics law enforcement efforts fall under Haiti's Ministry of Defense. Two drug units subordinate to the Haitian military have been established to coordinate intelligence gathering and interdiction activities: the National Narcotics Bureau (NNB) directs law enforcement activities, is subordinate to the military chief of staff, and is staffed by 40 officers and enlisted men; and, the Center for Information and Coordination (CIC), responsible for the collection, analysis, and dissemination of intelligence for narcotics law enforcement and interdiction activities, is staffed by about 30 security service personnel. Counternarcotics operations are controlled by the military and are conducted primarily by the army and the national police, which reports to the army commander. Haiti's air force and navy also have a counterdrug responsibility, but resource constraints have severely limited their involvement in drug control operations.

The *de facto* government has maintained drug enforcement efforts at or above the pre-

coup level, but a lack of support (the CIC, is almost inoperative) and dwindling resources have affected seizures (in 1993 cocaine seizures totalled 156 kgs).

The Haitian legal system is ineffective in controlling illicit drug activity. Although Haiti's narcotics laws are relatively strong, law enforcement and military resources have been grossly inadequate to cope with narcotics trafficking. The weak judicial system has brought few traffickers to justice, even when arrests have been made. Defendants are routinely released on a technicality within days of arrest and almost never come to trial. Haiti is not an important producer of illegal drugs, though small-scale cannabis plots have been discovered and destroyed by law enforcement officials. There is almost no information available on money laundering or precursor chemical activities in Haiti.

III. Country action against drugs in 1993

Policy Initiatives. There were no significant changes in GOH international narcotics control policy during 1993. Political issues continued to overshadow counternarcotics concerns for those in control of the government.

Accomplishments. Although the GOH made some minimal enforcement efforts during 1993, its counternarcotics actions fell far short of fulfilling the goals and objectives of the 1988 UN Convention. Illicit drug trafficking continues to be well beyond the capacity of Haitian security forces to control. Despite continued efforts under the *de facto* regime, corruption, inadequate manpower and resources prevented the NNB and CIC from making a substantial impact. The air force and navy were unable to engage in effective narcotics interdiction activities in 1993. The extent of narcotics-related money laundering in Haiti is unknown. The lack of currency regulations and money laundering laws, together with an open parallel currency exchange, make Haiti vulnerable to this type of activity. The degree of manufacture or trade in precursor chemicals, if any, is also unknown. Additional legislation would accomplish little in either of these areas until enforcement capabilities are enhanced and problems in the judicial system are adequately addressed.

Corruption. The USG does not have evidence directly linking senior GOH officials to drug trafficking, though rumors and (unsubstantiated) allegations abound. In 1992, the army command issued a field order which stated that any member found to be directly or indirectly involved with narcotics trafficking would be expelled from the military and turned over to public authorities for prosecution. That year, several low ranking officers and a number of enlisted personnel were expelled or reassigned. The civilian judicial system declined to prosecute. We are unaware of any further actions in 1993. If the GOH intends to prevent and punish public corruption, it is clear that it must do so in the judiciary first and foremost. Enhancement of drug enforcement and interdiction capabilities and legislative reforms will accomplish little until the prosecutors and courts are able to bring traffickers to justice.

TRIBUTE TO PRESIDENT CARTER'S ROLE IN THE PANAMANIAN ELECTIONS

Mr. PELL. Mr. President, I commend President Carter for his important role in the recent elections in Panama. President Carter led an international

delegation made up of leaders from throughout the hemisphere to observe the recent elections in Panama. The Carter delegation found those elections to have been free and fair.

It was particularly fitting for President Carter to return to witness the first free and fair elections in decades in Panama. Only 5 years ago, President Carter and President Ford led another international delegation to observe the 1989 elections. That delegation found the elections to be fraudulent, thus delegitimizing the electoral process and heightening international opposition to the Noriega regime. The delegation's findings were widely accepted and ultimately the regime was forced to annul the elections.

President Carter's contribution to the free and fair elections in Panama is only the latest in a series of efforts he has made to monitor elections in this hemisphere and around the world. Mr. President, I hope my colleagues will join me in commending President Carter for the outstanding role he continues to play in fostering democracy in the Americas and around the world.

THE AWARDING OF THE MEDAL OF HONOR TO U.S. ARMY MASTER SERGEANT GARY GORDON

Mr. MITCHELL. Mr. President, I know we all remember the tragic loss of life that occurred on October 3, 1993, when members of the U.S. Army Rangers and Special Forces became involved in a fierce firefight with supporters of Somali Gen. Mohammed Farah Aidid. Eighteen Americans were killed and many more wounded in the battle.

We will never forget the photographs of Chief Warrant Officer Michael Durant, held captive by the Somalis for 11 days, wounded and in terrible pain. And we will never forget our relief when Officer Durant was released by his captors and returned home to the United States.

In the midst of the chaos and horror that day in Mogadishu, a Green Beret sergeant from Lincoln, ME, named Gary Gordon committed an act of heroism that also will be remembered. Mr. President, I rise today to honor this outstanding young man who was killed in the line of duty, and who has been awarded posthumously the Medal of Honor by President Clinton.

During the battle on October 3, Chief Warrant Officer Durant's Blackhawk helicopter was hit by a rocket-propelled grenade and crashed, leaving him and three crew members injured and surrounded by hostile fire. Master Sergeant Gordon and Sergeant First Class Randall Shugart were then dropped from another Blackhawk helicopter to provide cover for the injured troops until reinforcements could arrive.

Without any backup and outnumbered by Somali gunmen, Master

Sergeant Gordon and Sergeant 1st Class Shugart pulled Chief Warrant Officer Durant and his crew from their helicopter and administered first aid. When Somali gunmen began attacking the crashsite, Master Sergeant Gordon demonstrated bravery and heroism to protect the injured men. While holding his position and keeping the attackers at a distance, Master Sergeant Gordon was shot and killed by Somali fire. Only Chief Warrant Officer Durant survived the battle.

For distinguishing himself conspicuously at the risk of his life above and beyond the call of duty, President Clinton has posthumously awarded Master Sergeant Gordon the Medal of Honor, the highest award offered to a member of the Armed Forces for an act of heroism while in service to our country. This is a very great honor, and clearly deserved by an individual who demonstrated outstanding bravery and devotion to his nation.

The family of Master Sergeant Gordon clearly will continue to feel the pain caused by the loss of their loved one. But I hope they know that the United States is deeply grateful for his service.

ARAFAT'S REMARKS

Mr. DeCONCINI. Mr. President, I rise today with great sadness over remarks made by Chairman Yasser Arafat, the chairman of the Palestinian Liberation Movement, in the speech he made May 17 in Johannesburg. Some of that speech was apparently not recorded and that which was recorded has become extremely controversial and very, very dangerous and troubling if in fact it is true.

I give Arafat the benefit of the doubt that the press may be misquoting the chairman, and we in public office know that that happens more frequently than we would like and I am sure more frequently than the press would like. However, it is of great concern that his statement as reported in the press said that the Cairo agreement was merely the first step in the peace process and that the liberation of Jerusalem is the Moslems' main objective in the peace accords with Israel.

This is quite different than what I understand to be the statement of principles and the accord between the PLO and Israel.

His statements that were made public, and apparently a tape recording has been furnished, are that Arafat called for a holy war, a jihad, to liberate Jerusalem.

There may be many interpretations of what that is, and I am far from being any kind of expert interpreter, but these words carry great strength and power. The interpretation that is perceived is that he is not committed to a negotiated settlement which does not include the "independence" of Jerusa-

lem. Yet this is not part of the statement of principle or accords signed by Mr. Arafat and, of course, Prime Minister Rabin.

No one wants to see a reversal in this peace process. Prime Minister Rabin may be, in my judgment, one of the few individuals in Israel who could bring that Nation to a possible peaceful settlement of the disputed areas in the Middle East. It took someone with his courage and his credibility built during his time as defense minister and the able leadership of his present foreign minister, Mr. Peres, who were willing to take great political risk.

Now we are at a juncture where there is an actual physical pullout of troops and turning over of autonomy, and the self-governance of Gaza and in Jericho. I am well aware that the PLO and others want other territories turned over immediately. That is not going to happen.

And these statements by Mr. Arafat, if they are correct, are going to set this peace process in reverse, in my judgment, and rightfully so.

If I were an Israeli today and I supported Rabin, I would have to wake up and say, "Wait a minute, Mr. Prime Minister. What assurance do we have that the PLO is going to live by those statements of principles?"

And I was an opponent, like Mr. Netanyahu, who is the head of the Likud party, I would say, "Wait a minute. What a big mistake. Mr. Arafat has said openly that he is not going to follow the pledge he gave Mr. Rabin to end violence."

There are further statements Mr. Arafat reportedly made that are of great concern.

Mr. Arafat supposedly said you have to come and to fight and to start the jihad to liberate Jerusalem, your first shrine. These statements seem to have far greater and stronger meaning than what Mr. Arafat later explained he meant by those statement. Mr. Arafat said that what he meant by "jihad" was a peaceful liberation.

It is vital that a strong message be delivered to the PLO and Mr. Arafat. I urge our Secretary of State and, if necessary, President Clinton to make very clear that the United States is not part of a peace accord, a peace process, or a statement of principles that talks about liberation of Jerusalem. That is not part of the agreement.

It is my understanding that under the accords the status of Jerusalem would be discussed, but it is not part of the agreement that there would be any pullout by the Israelis. I am not sure it ever will be. But that is for others to decide, not this Senator.

The Palestinian negotiator, Jamil Tarifi, whom I had the pleasure of meeting, said, "Oh, don't put too much meaning into Arafat's statements. It is not too significant." He said today that any delay on the part of Israel in

discussing the timetable for the next stage of the peace process would violate the peace agreement which stipulates that talks begin on the next "early empowerment" phase of the accord.

Well, I think it is important to send a strong message to the Arab world, particularly those what want to support and have offered support to Yasser Arafat and the PLO, and to caution them about the ramifications to deal with these types of statements.

When you use the word jihad, it raises all kinds of images in one's mind. We saw in Gaza and in Jericho—in Gaza particularly—the holy jihad, the holy war against Israel. We saw the terrorists' activities and we realized just how violent a jihad can be.

We saw on our televisions and in our newspapers how bloody a holy war can be.

The Israelis have an absolute right to ask Arafat for an affirmation of his commitment to peace before continuing with the next stages of the peace process.

It was the wars against Israel that brought the Israeli Army to occupy the so-called territories. Now they have agreed to leave. Not only have they agreed to leave, they have left. They have turned over the operation of Gaza and Jericho to the PLO. And the PLO will, I hope, under the leadership of Mr. Arafat, respond in a sensible way. But these statements by Arafat in South Africa are anything but common sense and anything but a good idea.

Last December, I headed a codel. We were in the Middle East and we met with Chairman Arafat. There was concern among the members of the delegation after we met with him as to just how committed he was to the peace process.

But we took him at his statements that, yes, it would happen; and if the United States and Israel would stop pressing him, he could get control of those radical elements within the PLO and move this process forward.

I think Mr. Arafat has attempted to bring about some restraint of those terrorists' activities, but I am greatly concerned about his unwillingness to denounce acts of terrorisms.

And Mr. President, I must say to Chairman Arafat if he were here today, "Play it smart. I know you have constituencies out there that need to hear that rabble-rousing words like jihad, and other words, that will demonstrate that we are going to get everything we want in these negotiations." But I think it is very clear, and I think Mr. Arafat knows, that neither side is going to get everything it wants. And such statements jeopardize nothing less than the peace process itself.

So, Mr. President, in closing, I urge the administration to take a quick, firm, position, and to make a strong statement on this matter to Mr.

Arafat. And I urge Mr. Arafat to make not only a clarifying statement, but to put it in writing. He has nothing to be lost by doing that and everything to gain.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed under the order.

KING HOLIDAY AND SERVICE ACT OF 1994

The PRESIDENT pro tempore. Under the order, the Senate will now turn to the consideration of H.R. 1933, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1933) to authorize appropriations for the Martin Luther King, Jr., Federal Holiday Commission, to extend such Commission, and to support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr.

The Senate proceeded to consider the bill.

Mr. WOFFORD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. WOFFORD. Mr. President, my colleague and friend of the civil rights movement, Representative JOHN LEWIS, and I originally introduced S. 774 and H.R. 1933 on April 3, 1993, the day before the 25th anniversary of the assassination of Martin Luther King, Jr.

This past weekend, I found myself remembering those tragic days because of the death of Jacqueline Kennedy Onassis. One of the mental photographs of Jacqueline that comes back to me—and I am sure so many of us—in vivid detail is her comforting Coretta King at Martin's funeral. Widow comforting widow, helping to weather the storm, helping to carry the burden. Coretta once suggested she could not have made it through those days without Jacqueline.

Mr. President, I also remember a night in the mid-1950's when my wife and I drove Martin and Coretta King from Baltimore to Washington after Martin had sharply challenged the National Black Fraternity for spending more money on its weekend convention than the whole annual budget of the NAACP.

Sitting with my wife in the back seat, Coretta told of her recurring nightmare that at the end of the road in the civil rights struggle, Martin would be killed. He leaned back from the front seat and said she should dream instead of all the things they could do while he was alive. Then he added, "I didn't ask for this. I was asked and said yes." He hummed a line from the spiritual "The Lord Asked Me and My Soul Said Yes."

Now, 25 years after Coretta's nightmare became a reality and some 10 years since Martin's birthday became a national holiday, what should we do in remembrance of Martin? How should we say yes?

We should certainly celebrate, reflect on, and never forget the victories won. While Martin Luther King was alive, the right to vote was won in one-third of our country and segregation laws were struck down everywhere in the land. In measuring those years, I want to say that these were not little victories which the civil rights movement won. As Senator COHEN suggested the other day and Senator BRADLEY has so passionately argued for some time, we still have much work to do in the area of race relations as we head into the 21st century.

We have not done so well in moving forward in our own time in the last quarter of a century since Martin Luther King was taken from us. But let us not demean history case by case, march by march, lunch counter by lunch counter, jail by jail, martyr by martyr, Executive order by Executive order, and, finally, law by law. The civil rights movement made history and ended undemocratic laws and practices in one-third of our country.

But it is not enough to remember victories won. Martin would want us to raise our sights to the work yet to be done.

In his sermon the night before he was killed, he said he had been to the mountain top and had seen the promised land and might not reach it himself. He was no longer afraid of any man, or death itself, he said. And he was ready to climb the whole range of mountains still ahead.

When he died, he was just trying to move up the next steep slope—the mountain of poverty in our cities, the mountain of class mixed with race, the mountain faced by a generation of young people denied hope and opportunity. Martin would have found it a scandal to let another generation of young Americans fall into a vicious cycle of poverty, drugs, crime, prison, even death. He could hardly have imagined that an estimated 100,000 American children would bring guns to school each day. Martin would not have accepted the epidemic of crime and senseless youth violence that is spreading across cities, suburbs, and rural communities in our country. A recent Business Week article estimated crime and violence are costing us \$425 billion a year. But the spiritual cost is much higher and much more important. Think of the terrible impact on a classroom when a student pulled out a gun and killed a fellow student. That happened in a small town in Pennsylvania.

Given a challenge like that, nothing would have aroused Martin more, even angered Martin more than people sup-

posedly honoring him by sitting home watching TV or sleeping late. The King holiday, should be a day on not a day off; a day of action, not apathy; a day of responding to community needs, not a day of rest. Martin would want the holiday honoring his birthday to be a day of reflection not recreation, service not shopping, a day not only of words but of deeds.

As President Clinton suggested at my alma mater Howard University, Martin Luther King lived and died in the fight to remind us of what is the greatest struggle in our lives in the present day—how to close the gap between our words and our deeds. The Martin I knew would not just be talking about battling violence, crime, drugs, and other problems plaguing our society. He would get out in the community, get his hands dirty, tackle the problems head on. When we honor him, we should do no less.

Mr. President, that is what this bill before us today does. It answers the questions "How do we say yes?" and "How do we honor Martin Luther King?" That is really the heart of this debate that I am having with the distinguished Senator from North Carolina: should America honor Martin Luther King and, if so, how?

The King Holiday and Service Act of 1993, as H.R. 1933, passed the House of Representatives by unanimous consent under specialty rules on March 15.

The King Commission has enjoyed strong bipartisan support in both Chambers. The King Commission was first established on August 27, 1984, by President Reagan. Under the leadership of President Bush, the Senate voted on May 2, 1989, to extend the Holiday Commission and authorized 5 years of appropriations at \$300,000 per year. The Senate passed the measure 90 to 7 and it was signed into law on May 17, 1989, 90 to 7.

This year there were 105 cosponsors of H.R. 1933 in the House, representing Members on both sides of the aisle. In the Senate, we have 17 bipartisan cosponsors including 6 members of the Judiciary Committee, which has jurisdiction.

On April 13, the Senate Judiciary Committee held a hearing chaired by my able colleague, Senator MOSELEY-BRAUN on S. 774. The Judiciary Committee marked up the bill H.R. 1933 as it was passed by the House and reported the bill out without objection by voice vote on May 5.

The legislation has the strong support of President Clinton, Jack Kemp, Coretta Scott King, numerous mayors and Governors, a lot of religious, labor, civil rights, and educational organizations ranging from the AFL-CIO to the Mennonite Central Committee and the National Catholic Educational Association.

I ask unanimous consent to enter into the RECORD a letter from Presi-

dent Clinton indicating his support for the Commission's reauthorization.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, January 17, 1994.

Hon. HARRIS WOFFORD,
U.S. Senate,
Washington, DC.

DEAR HARRIS: Thank you for your letter on the King Holiday and the problem of youth violence.

Our nation is indebted to you for your groundbreaking work in advancing the case of civil rights both as an advisor to Dr. Martin Luther King, Jr. and as a special assistant to President Kennedy. I know that your ideas about the power of nonviolent citizen action had a real impact on Dr. King's thinking and strategy and you, in turn, know of the impact that Dr. King had on my life and on my own call to public service.

I have reviewed the legislation that you and Representative Lewis have introduced to extend the work of the King Holiday Commission to promote community service as part of both the Holiday observance and its activities with young people throughout the year. Given the close association you and John had with Dr. King, it seems only fitting that the two of you should lead this effort together.

I fully support the reauthorization of the King Holiday Commission and look forward to working with you on this legislation. Making the promotion of community service part of the Commission's work is an appropriate way to honor Dr. King, and is in keeping with the Commission's effort to combat youth violence.

Dr. King lived and died in the fight to remind us of what is the greatest struggle in our lives, in the present day—how to close the gap between our words and our deeds, between where we were as a society and where we would like to be. Your legislation will help us close this gap and ensure that we continue to remember Dr. King not only by what we say, but by what we do.

I thank you for your work for the King holiday and our nation's youth.

Sincerely,

BILL CLINTON.

Mr. WOFFORD. I ask unanimous consent to put in the RECORD a remarkable speech given the day before yesterday at Drexel University by Teresa Heinz, whose husband's seat I have the honor to fill.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

LEADERSHIP IN THE POST-POLITICAL AGE

(By Teresa Heinz)

Thank you. When Bob Hall asked me to speak to you today on the subject of leadership, I was delighted, but a bit concerned. Talking to this group about leadership is like talking to Steven Spielberg about movie-making.

Nonetheless, this is precisely the sort of group with whom I would want to discuss this subject. I have become a proponent in recent years of a certain kind of leadership, one which places greater responsibility on people like you and me. It is not only fitting that we discuss this, but essential.

Leadership is a subject that inspires strong opinions, especially among people who are leaders themselves. Garry Wills writes in his

new book *Certain Trumpets: The Call of Leaders*, "Tell me who your admired leaders are, and you have bared your soul."

Necessity has forced me in recent years to search my soul for a definition of leadership. I have always been a leader, ever since I was a young girl. That's the product, I think, of always having had a strong sense of place and self. But my understanding of leadership has been refined by three recent challenges.

The first was my husband's death in 1991, which forced me to reflect deeply on the qualities that made him so very special as a leader. "Real leadership," he once said, "involves persuading people to do something now that will bear fruit in the future."

John appended that definition with a cautionary note. "Too many people," he said, "live only in the short term. Instead of clearly seeing what is demanded of us, instead of understanding and learning from the past, instead of charting a new course for tomorrow, too many Americans are allowing themselves to be manipulated into quarreling with the past and denying the realities of the present."

He spoke those words in 1979, and they ring even more true today. But to his definition of leadership, I would add the qualities that made him so special. These were very much qualities of the human spirit—joy, optimism, curiosity, a willingness to take risks, a love of people, a belief that he could make the world a better place and the gritty determination to make it happen. These, too, are the hallmarks of leadership, and they are qualities we all can share.

The second circumstance that challenged me to think of leadership in new ways came when I succeeded John as chairman of the Howard Heinz Endowment and conceptualized what has come to be known as the Heinz Family Philanthropies—a unifying identity for our foundations that protects the unique leadership of each. As a public figure, John was and had to be awedly discrete about his philanthropy. He never wanted to risk the perception that he was using philanthropy for personal political gain. As a private citizen, I faced no such peril, and so I felt an obligation to explore opportunities for transforming the traditionally quiet world of philanthropy into a dynamic force for change.

The third recent influence on my perception of leadership came when I was asked last year to seek election to the Senate. That forced me to consider where I, as a leader, could be most effective. And what I realized—no offense to my husband or to Harris Wofford—looking back at John's special qualities and how anyone can share them . . . and looking at the many models for non-political leadership I was unearthing through our philanthropy . . . what I realized was that leadership is not restricted to Washington . . . that often the most effective leadership of our times is coming not from government but from deep within the vast American heartland, from private citizens in business, in non-profits, in academia, in communities. I realized that my opportunity as a leader, and thus my responsibility, was to foster and to nurture that leadership, to harness and bring to light the leadership of others.

The temptation to seek public office was great, of course. If you're like me and most Americans, there are times—when you read the paper or watch the news—that you find yourself thinking you could do better, or pining for the leaders of yesteryear. Where, you wonder, is this generation's Washington, Lincoln, Kennedy or King? So great is our

thirst for the leadership of the past that even Richard Nixon, who was in many ways one of our strongest presidents, has been reborn, by all accounts the patron saint of misunderstood greatness.

As I peered down the gauntlet of electoral politics, I reached this conclusion: We may yet see the emergence of other Martin Luther Kings, other non-politician leaders, and in all likelihood that is the prototype for leaders of the future. The days of the great politicians, though, of the great men guiding us from the White House toward even grander visions, are at an end.

This is not, as is so fashionable to believe, the fault solely of the present generation of politicians. The politicians haven't changed so much as we—and the power of their offices—have. To quote Garry Wills again, "We do not lack leaders . . . We lack sufficient followers . . . Calls are always going down into the vasty deep; but what spirits will respond?"

Our spirits today seem resistant to political followership. I do not believe we have outgrown history's need for great leaders, just that politics has lost its capacity to provide them. We are living in a time that, for lack of a better term, can be called post-political.

By that, I do not mean that politics is a thing of the past. Rather, I mean that government, at least in this country, has lost its primacy as a venue for real leadership. Further, I mean that our leadership needs have changed, in a way not well-suited to our present notions of politics and government. To understand how, we must first understand what has happened to politics and to us, so let me briefly touch upon what I see as the most significant changes. In no particular order, they are:

First, we as a society have grown more cynical and lost faith with our politicians. Television is partly to blame—it has made us shallowly familiar with our politicians and them with us, and this kind of thirty-second familiarity does breed contempt. But the cause is less important now than the result, which is a wholesale disregard for politics and its practitioners. Lately this has manifested itself in a mass conversion to the politics of reform—from term limits to a desire to kick the bums out, as long as it's the other guy's bum. As *The New York Times* noted recently, suddenly everyone is a reformer.

This iconoclasm may be long overdue, but its practitioners generally offer little in the way of inspiration. We know what they are against, rarely what, if anything, they are for. Personally I support reform, but politicians can not repurchase the loyalty of the American people by foregoing lobbyist-sponsored junkets. That is not leadership. Great leaders understand that they are also symbols; what do the iconoclasts symbolize but a repudiation of themselves?

Second, we suffer from the rise of a political class. Ironically, so many politicians have become reformist converts because they see it as the ticket to their professional futures. Thus does the status quo perpetuate itself. And like any professional class, politicians are prey to the belief that they alone are the experts of their craft—a deleterious notion in a representative democracy.

Political careerism inflicts other damage. Politicians are all too human, and like most professionals they worry about furthering their careers or just keeping their jobs. Some of you may know that I recently spoke out against assault weapons. One of the reasons that I stepped forward on this issue is

that I could, while so many politicians would not. Cowed by powerful interest groups, career politicians must be driven by the anger of the people to take a stand. Ours is a time in which the alleged leaders are very often the followers.

Third, we suffer from stifling deficits. There is little money, and even less political will, for experimentation, let alone the sweeping visions of the past.

Fourth, we suffer from government made moribund by bureaucracy. There are many good people in the public sector, but their sheer numbers overwhelm us. Bureaucrats are prone to what Daniel Boorstin calls the bureaucratic fallacy, which he summarizes by quoting the sign over a French civil servant's desk. Translated, it read, "Never do anything for the first time." What hope do bureaucrats offer for the innovation and willingness to take risks that are so inherent to real leadership?

Fifth, we suffer from a diminished sense of citizenship. Harry Boyte, a senior fellow at the Hubert H. Humphrey Institute of Public Affairs, has written that, "From a nation of citizens, we have become a nation of clients." He quotes a politician who concluded after years of public service that government today "largely means the delivery of benefits to the appreciative, paid for by the oblivious."

I think that's optimistic. More aptly, today government means the delivery of benefits to the entitled, paid for by the overburdened. Too often, we as a society believe government owes us something, but we don't want to pay for it. How distant seems John F. Kennedy's appeal for a citizenry mindful of what it can do for its country.

As a whole, these changes have produced a political system disengaged from the people, and a people disengaged from issues and politics. We are left with a political system that cannot lead and a public that can not and will not follow.

Something deeply structural is at work here, too, and not just in the United States. It has to do with the still-unfolding communications revolution and the birth of what has been called the global village. The homogenization of culture at a global level has produced a backlash at the local level. Around the world we see societies and their sub-groups growing increasingly defensive of their cultures, their political and economic systems—in short, of their identities.

Ironically, the very globalization that so threatens these groups confers upon them greater power. This is what John Naisbitt calls the "global paradox"—how our global union empowers ever smaller forces of division. Thus is it that the dictators of Haiti learn from the warlords of Somalia the art of using the global theater to hold the world at bay.

This transfer of power to smaller, often non-traditional groups has its dangers. As we look around the world today, we are tempted to repeat the adage, "Everything old is new again." Countries in Europe and Africa are disintegrating back to old borders. Ancient hatreds drench the earth with blood in Bosnia and Rwanda. Racial antagonism is resurgent in America. We wonder whether the model for our future will be the peace process in the Middle East and the breathtaking liberation of South Africa, or the earth-shaking rage of Los Angeles.

But the truth is, none of this . . . none of it . . . is merely a revival of things old. It embodies a struggle toward something new, new insights into human affairs, a new form of organizing principle. It is a terribly dif-

ficult transition. At times it seems as though some vengeful god has unleashed upon us the dogs of chaos. The disorder and uncertainty of our present circumstances are new and frightening, and they tempt us to revert to the defining identities of the past—the old leaders, the old values, the old customs, and yes, sometimes, the old hatreds.

The traditional role of government in times such as these has been to suppress chaos, which is precisely what we expect of it. But I suggest that that is both impossible and unwise. The Chinese have two symbols to express the idea of crisis—one means danger, the other means opportunity. This neatly captures our dilemma: We are at a fracture point in human history, where either we will break terribly with the present and revert to the past, or we will seize the opportunity we have been given to seek the new.

The entire world, it seems to me, is struggling with a question that it must answer and can not avoid forever. That question has to do with community: Just what is it? Is it nation? Which nation? Is it history? Whose history? Is it neighborhood? Is it ethnic group? Is it like-mindedness? Those questions cannot be answered on behalf of anyone anymore. The world has changed too much, power has shifted too irrevocably, for us to put the populist genie back in the bottle.

I offer as a guide a thought from Aristotle: "A state is not a mere society, having a common place," he wrote, "Political society exists for the sake of noble actions, and not for mere companionship." That idea suggests a foundation for communities of the future. We are not here to keep each other company—we are here to help each other.

There is an analogy for our situation in the natural world. Studies of the environment have revealed that the apparent chaos of nature belies an underlying order. Almost everything, we have learned, is connected, into what students of biodiversity like to call "the web of life."

We have also learned that the web's very existence depends on the complexity that we perceive as chaos. That chaos is nature's creative heartbeat, its source of evolution and adaptation, without which it will die.

In post-political America, the task of government is not to suppress the emergent chaos in human affairs, but to manage it, to direct it, and to keep it from disintegrating into violence. It is to resist the forces of extremism whose discomfort with uncertainty leads them to cry out for their idea of order and to drive a bloody stake between themselves and others.

The role of our political leaders is to safeguard the new source of real leadership in America. No longer vested in government, that leadership is springing forth from us, and from people nothing like us, our common bond a willingness to respond to crisis and the vision to pursue opportunity. In our schools, in our neighborhoods, in our workplaces, in these places leadership is happening. It is there that leaders still step forward willing to take risks, risks tiny in global terms, but huge for the individuals—who nonetheless dare to experiment, to innovate, to step outside the confines of present circumstances and create a new and better future.

This is the premise of the work we are doing at the Heinz philanthropies. We seek to support these new leaders and the programs they invent or that we invent with them, and to unite them in partnership with a government so desperately in need of their insight and courage.

As some of you may know, the Heinz Family Foundation, one of the Heinz Family Phi-

lanthrops, recently created the Heinz Awards, which every year will recognize five individuals for a combination of vision and achievement in the areas of the arts, technology and economic growth, public policy, the environment, and what I call the human condition. The Awards, each of which is for \$250,000, will draw attention to men and women who are proving that individual really can make a difference. By their actions, these modern heroes personify a breed of citizenship as promising and enduring as any our country has ever known . . . one driven by the same spirit as drove my husband, not just in politics, but in all walks of life.

When I referred to you as leaders at the opening of these remarks, it was not to compliment you. If anything, it was to challenge you. To you and others like you . . . to all Americans on whom life has smiled by giving them power, or money, or prestige, or insight, or intellect, or charisma, or talent, or health, or energy . . . to all such Americans has fallen the responsibility for guiding this country into the next century.

I spoke a moment ago of the web of life. America, if you think about it, is itself a great web—a web of diverse peoples . . . drawn from different ethnic backgrounds, races, religions, nationalities, and convictions . . . woven together by shared dreams and aspirations, and yes, by shared tragedies and hardships.

These are the silvery threads that draw us together into a great nation. This is the source of the creativity that in the past has made us—and more than ever in the future will continue to make us—a model for the world.

The web pulsates with the creative energy of countless men and women who are awakening to their power and responsibilities as leaders. The scale of their deeds may sometimes seem small, but by their spirit they fuel our future. The moment in our history has arrived when we must stop awaiting the return of the leaders of the past, and must embrace instead the heroes within, the hope for tomorrow.

The people in this room are leaders. Embrace your leadership. Encourage the leadership of others. Our future is truly in our hands.

I want to conclude by expressing again my appreciation for this opportunity to speak to you. The University honors me with its degree, and you honor me even more by your audience. Thank you.

Mr. WOFFORD. Mrs. Heinz in accepting an honorary degree urged that we look not to elected officials so much, but to look even more to leadership coming from the private and the independent sector, look to the Martin Luther Kings of the future, she said, rather than to any of us political leaders who hold public office. That is another reason to promote and strengthen the Commission and the holiday, to help produce the future Martin Luther King, in the large scale or in the small scale, in the Nation at large or in each community.

This modest but important bill reauthorizes the Martin Luther King Holiday Commission and is designed to help transform the observance of Martin King's birthday into a national day of service and action. It is designed to remember Martin the way he would have liked: a day that reflects his propo-

sition that "everybody can be great because everybody can serve." A day that brings the greatness out in people—especially the young—by bringing them together to make a difference in their communities, fixing parks, tutoring children, rebuilding schools, ending poverty, feeding the hungry, immunizing children, housing the homeless.

Our legislation enables the current King Commission to organize the holiday as a fitting tribute to Martin Luther King, a day of interracial cooperation, antiyouth violence efforts, and community service. Linking the King Commission chaired by Coretta Scott King with the Corporation on National and Community Service, the bill will encourage service opportunities across the Nation in conjunction with the holiday.

Mr. President, today the King Commission is on the front lines helping young people say no to crime, drugs, prejudice, and violence, and say yes to nonviolence and community service. The Commission has formed partnerships with law enforcement agencies, business and professional organizations, including the National Basketball Association, the National Football League, religious organizations, schools and families to sponsor Youth Against Violence symposiums. These symposiums have taught over 40,000 at-risk young people Dr. King's message of nonviolence and helped them get the resources to solve problems and turn their lives around. The Commission's good work in this area needs to be strengthened.

We can put more cops on the street, and with our tough new crime bill, we will. We can crack down on career criminals. And we should. We can provide more opportunities for young people to get the education and training they need to be productive, law-abiding citizens. And we must. But at some point we all know there is a limit to what Government alone can do to respond. Changing a culture of violence and permissiveness will take all of us, as citizens and parents. And that is what this holiday ought to be about. And that is part of what this Commission has been doing since its inception.

Mr. President, this bill accounts for \$300,000 next year out of the \$1.5 trillion budget. It is not as important as comprehensive health care reform that the Labor and Human Resources Committee, on which I am serving, is marking up this week. It is not welfare reform. It is not legislation that will change our national unemployment system into a reemployment system, as we have done in Pennsylvania. Nor is it as significant as the Elementary and Secondary Education Act or any other number of vital measures this Congress needs to craft and pass in nonpartisan fashion this year. But this is a good bill, for a good Commission that with very modest resources has la-

bored to keep Martin Luther King's dream alive.

It is good that all 50 States have finally adopted the national holiday. But this milestone does not mean the Commission's work is done. On the contrary, I think some of the most important work is just beginning.

Imagine what a million Americans could do in just 1 day of community service. And think what they could do if they carried on that service throughout the whole year working together. Some people have said we do not need a Federal holiday in honor of Martin Luther King. Some have said it is time to sunset the King Commission and no longer try to organize the holiday to be something more than a day of rest and recreation or to get more Americans to observe the holiday—only 18 percent of businesses do for example. I disagree on both counts. We need this Commission to work actively to make that day a sunrise of service, of building common ground, of reflecting on how far we have come and how far we still must travel.

A little more than a quarter century after Martin's violent death, I believe great days can be ahead—if we learn to seize those days. If we do it together. If we recognize that to do our duty we must be more inventive and go forth to the front lines of our society, to make a reality of the American dream of equal opportunity for all.

Today this body has an opportunity to show the American people that we can come together on both sides of the aisle. Today, as we hear new voices of hatred and prejudice and see too many acts of racism and bigotry and ethnic cleansing, we have a chance to promote racial harmony. Together, as crime grips our society, we as Democrats and Republicans have a chance to say "no" to violence and "yes" to nonviolence. Today we have a chance to reaffirm Martin's proposition that we must meet hate with love and that we are at our best when we are serving others—the drum major instinct that he called for. Today as public servants of all stripes and ideologies, we have a chance to appeal to the better angels of our nature and remember a man and a movement that represented the best of what America stands for.

As Jack Kemp, former Secretary of Housing and Urban Development, and now codirector of Empower America, said so eloquently at our recent hearing:

This bill is not a right-left issue, or a conservative-liberal issue * * *. It is an issue for all Americans devoted to the principles and ideals for which Martin Luther King gave his life and fought.

Words—Martin's words—will always be part of what we celebrate. Next to Lincoln's, his are probably the most moving words in American history. But let us remember Martin most of all by his deeds—and honor him by our own.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina [Mr. HELMS].

Mr. HELMS. Mr. President, I thank the Chair.

Mr. President, the distinguished manager on the other side mentioned to me that the able Senator from Illinois would like to speak next, and I am perfectly willing to do that. As a matter of fact, it will be an accommodation to me because I need to meet with some foreign visitors in connection with my responsibilities as ranking member of the Foreign Relations Committee. But I would like to spend a couple of minutes first while I offer an amendment to the bill.

AMENDMENT NO. 1738

(Purpose: To restore the original purpose of the Martin Luther King, Jr., Holiday Commission by ensuring that only private funds are used by the Commission)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1738.

At the appropriate place, insert the following:

SEC. 1. Notwithstanding any other provisions of this Act no federal funds shall be used for the purpose of funding the Martin Luther King Federal Holiday Commission.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The time is to be utilized under the first-degree amendment before it is in order to offer the second-degree amendment.

Mr. HELMS. Mr. President, I can solve that by asking for the yeas, and nays, can I not?

The PRESIDENT pro tempore. That is right.

Mr. HELMS. Mr. President, I ask unanimous consent that the first amendment be laid aside.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The first amendment will be temporarily set aside.

AMENDMENT NO. 1739 TO AMENDMENT NO. 1738

(Purpose: To restore the original purpose of the Martin Luther King, Jr., Holiday Commission by ensuring that only private funds are used by the Commission)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The second-degree amendment therefore is an amendment in the first degree. The second-degree amendment cannot be offered as a first-degree amendment

unless the first-degree amendment is temporarily laid aside.

So the second amendment is the amendment in the first degree, may the Chair ask?

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to offer this second-degree amendment.

The PRESIDENT pro tempore. Is there objection to the request? Hearing no objection, it is so ordered.

Mr. HELMS. I thank the Chair.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1739 to amendment numbered 1738.

In the pending amendment strike all after the word "SEC." and insert: "1. Notwithstanding any other provisions of this Act no Federal funds shall be used for the purpose of funding the Martin Luther King Federal Holiday Commission. This section shall become effective 1 day after the date of enactment."

Mr. HELMS. Mr. President, may I ask what the time situation is?

The PRESIDENT pro tempore. The Senator from North Carolina has remaining on debate 28 minutes and 36 seconds. That is on the bill. He has half of the 2 hours on the first amendment that he has introduced. He has half of the 1 hour on the second-degree amendment that he has introduced.

Mr. HELMS. I thank the Chair.

The PRESIDENT pro tempore. The other side has 15 minutes remaining for debate.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Mr. President, is it in order for me to yield 15 minutes of the time I otherwise would take on the opening statement to the distinguished Senator from Illinois?

The PRESIDENT pro tempore. It is in order for the Senator to do so, if he so wishes.

Mr. HELMS. I ask unanimous consent that be done so she will have 30 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Ms. MOSELEY-BRAUN. Mr. President, it was my understanding that the Senator from North Carolina needed time in order to attend a meeting. I am prepared to defer and allow him that time at this point so as not to interfere with the rest of his schedule.

Mr. HELMS. I thank the Senator.

The PRESIDENT pro tempore. The Senator from Illinois has been yielded 15 minutes by the Senator from North Carolina.

Mr. WOFFORD. I yield whatever time the Senator from Illinois needs from leadership time which she vitally needs for debate.

The PRESIDENT pro tempore. The Senator from Illinois has the floor. If she wishes to utilize it, she has 30 minutes.

The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

Mr. President, I rise in support of the bill and in opposition to the pending amendments.

Mr. President, I rise today to speak in support of H.R. 1933, the King Holiday and Service Act of 1993. H.R. 1933 will extend the life of the Martin Luther King, Jr., Federal Holiday Commission, which was created in 1984 to assist in the celebration of the first King Federal holiday. The Commission is entrusted with keeping Dr. King's dream alive by making his birthday celebration more than just another day off work, but instead a day for all people to come together and serve their communities.

Mr. President, last week we observed the 40th anniversary of the Supreme Court's decision in Brown versus the Board of Education. Many Senators, including myself, offered tributes to the Court's opinion in Brown, which started this Nation down the long and troubled road toward equal opportunity for all citizens, regardless of race or religion or gender or national origin. But as important as the Supreme Court's decision in Brown was—and make no mistake about it, Mr. President, the Brown decision was arguably the most important Supreme Court decision in the 20th century—it did not in and of itself end segregation and discrimination in America. In the years following Brown, the entire South still lived under the domain of Jim Crow. Blacks were still relegated to the back of the bus, were still banned from the white lunch counters, and were still not allowed to use the same bathrooms or water fountains as whites. Interracial marriage was prohibited—by law—in many States, and any black who attempted to vote was quite literally risking his or her life.

For the Brown decision could not, with the stroke of a single pen, change the attitudes and beliefs of the American people. The Supreme Court could not, with one decision or two decisions or ten decisions, wipe out the troubled legacy of discrimination in America. The Supreme Court could not even guarantee that the actual plaintiffs in Brown would ever attend desegregated schools. The fact is, they never did, nor did thousands of children that came after them. Wiping out discrimination,

and ensuring equality for all Americans, would require far more than the directives of the Highest Court in this land. And when, in 1956, the young minister of the Dexter Avenue Baptist Church, Dr. Martin Luther King, Jr., organized a boycott of the segregated bus system in Montgomery, AL, America had found the leadership, the answers, that even the Supreme Court could not provide.

America has changed a great deal in the days since Martin Luther King first sprung to national prominence. The laws that created a dual society in so many parts of this land have been struck down. Segregation in public bathrooms and lunch counters has ended, and official barriers to the right to vote have been rejected.

And so many of these changes can be directly attributed to the work of Dr. King. His life was dedicated to fighting for justice and equality not just for African-Americans or the poor, but for all Americans. He shared with us his dream of a society where the doors of opportunity and prosperity were closed to no one, and he challenged us to make that dream a reality.

Dr. King also taught us that our diversity was our strength, not our weakness. He stood and worked against prejudice, discrimination, and hate in all its forms. And in the end, he gave us our most potent weapon with which to fight the evils of poverty, prejudice, and discrimination: a belief in the inherent goodness and dignity of every human being. As Dr. King told us so many years ago:

Everyone can be great because everyone can serve. You don't have to have a college degree to serve. You don't have to make your subject and verb agree to serve *** you only need a heart full of grace. A soul generated by love. And you can be a servant.

But as far as we have come since Martin Luther King's tragic death, it is clear that we have a long way to go. In many ways, since the gains made by the Brown decision and by the work of Dr. King, our Nation is becoming more and more separate, and less and less equal. Dr. King would find it a scandal that so many young people are still born into poverty, still receive an inadequate education, and still have no chance of achieving the American dream. He certainly would not believe that juvenile arrests for murder increased by 85 percent in a recent 5-year period, and that approximately 135,000 students now carry guns to school every day. He would be distressed that hate crimes—crimes committed against a victim chosen solely due to their race, religion, gender, sexual orientation, or country of national origin—are on the rise in cities throughout the United States. And, 40 years after Brown versus the Board of Education, he would be troubled that, in my hometown of Chicago, more than 90 percent of black students still attend

either mostly black or predominately minority schools.

Mr. President, there have been some who say it is time to sunset the King Commission, that—with the holiday recognized in 49 States, and in New Hampshire as Civil Rights Day, the work of the King Commission is complete. In fact, just the opposite is true. As the facts I have cited above demonstrate, the message of Dr. King—his message of love, of nonviolence, of unity among the races, and of hope—is perhaps more relevant and more necessary today than ever.

Since its inception, the Martin Luther King Federal Holiday Commission has striven to keep Dr. King's dream alive. Centered around the themes of "remember, celebrate, and act," the Commission has worked year round to ensure that the holiday lives up to its full potential as a day of community service and interracial cooperation. Working with only modest appropriations and a paid staff of two, the Commission has responded to literally thousands of requests for information and distributed millions of pieces of literature on the subject of Dr. King and the day set aside to honor him.

In a time when more and more people in our society see fit to resolve the most trivial of conflicts by picking up a gun or a knife, the Commission has worked to train people—particularly young people—in the principles of nonviolence. At a time when many communities in our Nation are falling apart, it has encouraged people of all ages to honor Dr. King by becoming involved in community service and making the neighborhoods where they live a better place. At a time when division among the races seems to be increasing, rather than decreasing, at a time when a particularly hateful speech sparked an official condemnation from the U.S. Senate, it has promoted unity and understanding among the races. Activities sponsored by the Commission range from youth against violence seminars to "I have a dream" youth assemblies to the recent 30th Anniversary March on Washington.

The work of the Commission is only beginning. Recent surveys show that only 18 percent of Fortune 500 companies recognize Dr. King's Holiday. Many people, who know nothing more about the holiday than the controversy surrounding its creation, mistakenly assume the day is a celebration only for African-Americans. That misinterpretation is a great disservice to a man who devoted his life to uniting people of all races. And there are young people who are completely unaware of the contributions, the sacrifices, that Dr. King made for this country.

Furthermore, merely establishing a King holiday in every State is not enough. For if we allow this holiday to become nothing more than another day of rest and relaxation, of sleeping later

and bargain sales, we have failed. We have failed the memory of Dr. King, and we have failed the potential within each of us—the potential to achieve greatness through service.

That is why passage of H.R. 1933 is so important. The bill will reauthorize the King Commission for a period of 5 more years, and give it sufficient funds to continue its good work. In addition, the legislation will broaden the mandate of the King Commission to include the promotion of community services activities. The bill will give the Commission on National and Community Service [CNCS], which was created by the national service bill, the authority to make grants to pay for the Federal share of planning and implementing services activities in conjunction with the Federal holiday. The service activities will be consistent with the life and teachings of Dr. King, such as cooperation and understanding among racial groups and nonviolent conflict resolution. Federal grants can comprise no more than 30 percent of the cost of such events.

Think about this for a minute—a holiday dedicated to the proposition that each of us can make a difference. One day out of the year when people of all races can come together and make their communities, and consequently our Nation, a better place to live. The possibilities are as endless as our needs. The day could be used to donate blood or volunteer at a hospital, to clean up a park or plant flowers in an inner-city neighborhood, to volunteer for the Boy Scouts or Girl Scouts or the Special Olympics, to tutor children or to work with those who have AIDS. An investment of \$300,000 is certainly money well spent if it can inspire 10 or 20 million Americans put aside 1 day toward these activities.

I have heard some argue that Federal commissions in general are unnecessary, that in this time of budget deficits we should simply eliminate all nonessential services. I am ready to debate that issue should it be raised in the future. But let us not single out a commission that has encouraged more than 4 million youth to sign a pledge to reject violence, that has encouraged millions of people, young and old alike, to devote their precious time to helping those less fortunate, and has worked to unite individuals of all races. Don't single out a commission that has been praised by the chairman of the House subcommittee with oversight responsibilities as an example of an organization that has carried out its mission admirably with only a modest amount of Federal funds.

I had the privilege of chairing a Judiciary Committee hearing on this legislation at which a number of distinguished witnesses appeared in support of the bill, among them were Coretta Scott King, Jack Kemp, former Secretary of Housing and Urban Develop-

ment, and my colleague from Pennsylvania, Senator WOFFORD. But the most impressive panel—and I do not say this in any way to impugn my colleague—was a panel of young people whose lives have been touched by the work of the Commission. Three students from the University of North Carolina—one white, one black, and one Indian—testified together in a touching display of harmony among the races. But it was a young woman, Ms. Amy Cammack, from Harrisburg, PA, who really struck me. Ms. Cammack is in the eleventh grade at Bishop McDevitt High School in Pennsylvania, yet she could teach those of us in the Senate a great deal. I would like to quote today from Ms. Cammack's testimony.

"How interesting," Ms. Cammack said:

That those in power here in Washington don't see the potential to help end violence, encourage community service and advocate for cultural diversity through one of the greatest leaders of this century.

The King Holiday Commission, she continued:

May be the only Federal entity in existence today whose function it is to spread a message of peace, tolerance and understanding—three critical keys to ending violence in our communities.

Ms. Cammack concluded her testimony with the following:

What I fail to realize is the objective of closing the King Holiday Commission. To save money? As the adults, those in powerful positions, you always say to young people like me, you are the future. Well, we need help. The King Holiday Commission provides help. I think it can do more.

Well, I agree with Ms. Cammack. The King Holiday Commission can do more, if we give it the chance. It can promote harmony and understanding among the races. It can inspire people to give to their communities, to make the world in which we live a better place, even if only for a day.

The Washington Post, in an editorial endorsing the legislation we are considering here today, recounted a story Dr. King told the night before he was gunned down in Memphis in 1968, the story of the Good Samaritan who finally helps to stop the injured man after so many had passed him by, refusing to lend a hand. I would like to repeat that story here today. Dr. King said that maybe those people who did not stop to help the injured man were too busy, or they felt it better to deal with the underlying causes of the problem than to get bogged down with the individual. Or maybe they thought the individual was faking it, or they were scared and thought, in the words of one who refused to help, "If I stop to help this man, what will happen to me?"

But as Dr. King went on to explain, that question, the question of "What will happen to me," was the wrong one to ask. The Good Samaritan, the one who finally helped the injured man,

knew that the right question was "If I do not stop to help this man, what will happen to him?" The Good Samaritan, Dr. King said, decided not to be compassionate by proxy.

And so it is with the legislation before us today. We can refuse to reauthorize the King Commission for a period of 5 years, or we can refuse to give the Commission the adequate funds to complete its mission, because we are worried about what might happen to us if we do. Or we can choose the courageous path, the path of the Good Samaritan, and realize that the proper question to ask is what will happen to those in need if we do not. What will happen to the potential within each of us, the potential to achieve greatness through service? That, Mr. President, is a question I hope we do not have to answer.

Dr. King, the man who taught this Nation to work for justice through nonviolent means, died a violent death in 1968, long before he could see this Nation achieve the promise of which he knew it was capable. It is up to the rest of us—all of us—to complete his agenda.

Throughout this debate I have stressed the importance of the Commission's role in distributing information on Dr. King's life, in teaching those in the younger generations, who were born after 1968 what he meant to our Nation. And that importance can never be understated. America must never forget the meaning of Dr. King's life, for if we forget the tragic lessons of our history we are doomed to repeat them. We must continue to recognize the achievements of Dr. King, and to build on those achievements as a way of ensuring that his dream will one day become reality. Dr. King brought out the best in people. The day set aside to honor him should do no less. The King Federal Holiday Commission will ensure that the holiday does just that.

I know that the President is an advocate and devotee of history. In that vein, there is always the old expression, "Those who do not know history are bound to repeat its mistakes." I am compelled to remember the fact that for many of the young people whose futures are so much at stake—the Amy Cammacks of the world—for them, what transpired in this country in the civil rights movement and post civil rights movement, during that whole turbulent period of our history, it is exactly that; it is ancient history to some of them. I remember speaking at a high school, and a young, black female student said to me, "Dr. King, he was assassinated, right?" Well, it occurred to me that she was not yet born when all of this happened.

It seems to me that we have an obligation, not only to teach the young people the lessons all of us learned from that history, but to show them

the way and to give them examples of the positive values that came out of our coming together as a nation, of the positive values of our cultural and racial and ethnic diversity, of the positive values of learning to resolve disputes without violence, of the positive values of pursuing peace. And that is a mission that this Commission has and the mission that this Commission has so ably fulfilled in its brief existence. It reaches out to young people. Again, you and I may have a vivid, personal memory of Dr. King and what all of the issues were. To young people born in 1972, who may serve as pages in this Chamber, who are in school now themselves, this is something that could have occurred in 1857, as far as they know, because it is not something that is real to them, unless we, the adults make it real.

The King Holiday Commission seeks to continue to carry the message forward, to take the history lessons to the young people, to give them, by way of example, the notion that in non-violence, in interracial cooperation, by coming together, we can build a stronger America for them to inherit in the 21st century. That is what this Commission has done and I daresay has ably done.

Mr. President, the amendment seeks to strike the funding from the bill. In that regard, I think that the intent, obviously, is to destroy the work of this Commission. I point out that in the time of its existence, Mr. President, this Commission has received high marks from everyone who has looked at the operations of the Commission. There was a study by Arthur Anderson with regard to this Commission, as well as the House Oversight Subcommittee that looked into the operation of this Commission. The chairman of that oversight committee called this Commission an example "of an organization that has carried out its mission admirably, with only a modest amount of Federal funds."

Mr. President, I will conclude at this point and reserve the remainder of my time for later.

I think it is appropriate to hear the amendment first to be able to react and respond to the amendment. But I say to you that the importance of this Commission cannot be overstated. I think the importance of this Commission was most aptly spelled out by the high school student.

It seems to me that for every Member of this Chamber, carrying forth positive values and teaching our young people positive values and positive ways of interacting with each other is a small investment in our present and their future. I encourage the support of this body for this legislation.

I reserve the remainder of my time.

Mr. WOFFORD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

Mr. HELMS. Madam President, may I inquire about the time situation? While I was in my meeting I noticed that there was a rather long quorum call. Was that equally divided?

The PRESIDING OFFICER. The Senator is correct. The quorum call was charged on the first-degree amendment. The Senator still has 30 minutes on the second-degree amendment.

Mr. HELMS. How much time do I have remaining, if any, on the opening statement—on the bill itself?

The PRESIDING OFFICER. The Senator from North Carolina has 13½ minutes remaining on the bill.

Mr. HELMS. I have 13½? That many? Suppose I begin to use time on the first-degree amendment, if that is all right with the Parliamentarian.

The PRESIDING OFFICER. The Senator from North Carolina will be notified that it will take consent.

Mr. HELMS. I am sorry?

The PRESIDING OFFICER. The Senator from North Carolina will be advised that it will take unanimous consent to do that.

Mr. HELMS. All right, since I am the only one here except for the distinguished occupant of the chair, I ask unanimous consent that that be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Madam President, I have no illusions whatsoever about the probable outcome of my effort to persuade the Senate to give some genuine thought to the proposed extension of the Martin Luther King Federal Holiday Commission, H.R. 1933.

The political reality is that the King Commission extension will be approved again just as it has been before, despite the past assurances that there would be—without fail—a sunset of Federal subsidies for this outfit.

I remember in 1989 Sam NUNN, Senator NUNN, engaged in a colloquy with the then Senator from North Carolina, Mr. Sanford on ending the King Commission in 5 years: Oh, no question about it, both of them said it will end in 1994. I saw Senator NUNN this morning at the White House and he said, "That is my recollection and I thought it was going to be sunsetted."

I do not know how Senator NUNN is going to vote but I know how difficult it is, politically, for some Senators to look reality in the face. The King Holiday Commission, despite the very clear promises of its creators, is a case study

of why Federal handouts do not work, and why an irresponsible Congress—and no other phrase fits—why an irresponsible Congress has saddled the American people with a \$4.5 trillion debt.

I have already heard it said this is just a little bit of money, we will not miss it. But it is sort of like Everett Dirksen said: A million dollars here, a million dollars there and pretty soon you're talking about real money.

Anyhow, Madam President, we are going to hear many emotional speeches about Dr. King and his life and how he should receive official devotion—official governmental devotion—that no other man or woman in the history of the United States has received: Not Washington, not Jefferson, not Lincoln, not Truman, not Eisenhower, not Kennedy.

Senators will be emotional, as they make these speeches. But the trouble is that their speeches have nothing whatsoever to do with the real issue. The issue is that the Congress has failed in its duty to spend the people's money wisely and Congress has failed to live up to the commitments, the flat-out commitments that were made in 1984, in 1986, in 1989, and again in 1994 regarding the King Holiday Commission.

In the beginning the King Commission was a temporary Commission. It was not supposed to last long. And it was supported by private donations.

Today, there are proposals being made to make the Martin Luther King Commission a permanent—a permanent—drain on the American taxpayers. Senator MOSELEY-BRAUN has a bill to do just that—make it permanent. But let us review just a little bit of history. A lot of Senators do not want to hear about history, but it is good for them to hear it occasionally.

The Martin Luther King Holiday Commission was established in 1984 after Congress had determined, what? Here is what:

It is appropriate for the Federal Government to coordinate efforts with Americans of diverse background and with private organizations in the first observance of the holiday.

You notice I stressed "first." Anybody's reading of that statute leads to the conclusion that the Commission was intended to exist only long enough to set up the first King holiday.

That occurred 10 years ago on January 19, 1984. Almost every Member of Congress who supported the creation of the King Commission stressed—no, emphasized—first, the point that the Commission would exist for only 20 months and, second, that no Federal taxpayer funds would ever, ever be used.

So what is new about such promises, Madam President? I will tell you what is new. Nothing. We hear that sort of thing all the time. Here we are today facing a lot of empty rhetoric so we can ignore the real point.

Madam President, I recall what one Congressman, a supporter of this bill, Mr. Addabbo, said back in 1984. To be honest about it, I did not recall until I did a little bit of research. Here is what he said:

The maintenance and expenditures of the Commission are to be made from privately donated funds and, therefore, represent no further burden on the Federal budget.

I am sure he was sincere, but he was sincerely wrong on the facts as later events have proved.

Then there was Mr. Courter of New Jersey who said on the floor of the House of Representatives:

I would emphasize, Mr. Speaker, that this Commission will be functioning using private donations, private money. Dr. Martin Luther King would have had it that way. I am quite sure, if he could express his own desire.

OK. Then in 1986, Madam President, we heard arguments that the Commission still needed just a few more years to complete the job it had started 2 years before. So Congress, which dearly loves to spend other people's money, extended the Commission's life for 3 more years saying, "of course, no more extensions after that."

Once again, we heard proponents at that time stress over and over and over again that the Martin Luther King Commission would continue at that point to operate with private funds. No Federal money. None, none, none.

Senator BOB DOLE stood right here where I am standing now and said:

It should be emphasized that no Federal money is appropriated for the Commission. Rather, it operates entirely on donated funds. Under the extension legislation, the Commission would continue to be funded from these sources, [meaning private sources]. Expanding the size of the Commission should also enhance its ability to raise private sector funds.

I am not sure, but I think that BOB DOLE has done more than probably anybody else to help raise private funds for the Martin Luther King project. You know what he believes. I just read it.

Now, Madam President, get this: At the time of the second extension of the life of the King Commission in 1989, the Martin Luther King Center for Non-violent Social Change in Atlanta already was raising between \$20 million and \$30 million a year privately. But many of the same folks did not want to have to raise funds for the King Holiday Commission as well, so they called Washington and said send us the taxpayers' money. So in 1989, they came back to Congress but this time with outstretched hands: "Gimme, gimme, gimme." Although the King Center and the King Commission are not legally bound, they share many of the same officials and directors.

In 1989, they demanded \$1.5 million for 5 years "to encourage all States to establish the King holiday as a paid

holiday for employees" and "to learn how to bring protest campaigns." Oh, the plot thickens now, does it not?

Madam President, prior to the debate in 1989 on federally funding the King Commission, I had meeting after meeting after meeting with the distinguished majority leader, Mr. MITCHELL, the distinguished minority leader, Mr. DOLE, and the distinguished Senator from Georgia [Mr. NUNN]. In each meeting, I said, "Fellas, tell me why the American taxpayers should be forced to provide funds to institutionalize and maintain the King holiday—we do not do it for Washington's birthday or anybody else?"

Every Senator emphasized then that he or she did not want the Commission ever to become a never-ending burden on the taxpayers. So, here we are setting it up again for another extension and more millions in Federal dollars.

In 1989 they said 5 years would do the job, whatever the job was—which by the way, I had a little difficulty finding out. Everything in its legislative history indicates the King Commission was supposed to go out of business. The Commission's supporters said it over and over and over again in 1986 and in 1989: "After this extension, the King Commission—is over, it's gone."

Let me offer just one example of the stated attitude of most Senators when the most recent King Commission debate occurred on this floor on May 2, 1989. I am going to read an exchange which you can read in the CONGRESSIONAL RECORD.

It is an exchange between former Senator Terry Sanford, of North Carolina, and the distinguished Senator from Georgia [Mr. NUNN], both of whom I referred to a moment ago. Both of them were principal cosponsors of the 1989 extension act. Here is what Senator Sanford said to Senator NUNN regarding the King Holiday Commission:

Senator SANFORD. When we vote for this bill, we are, in effect, saying we think the Federal Government's help in getting it [the King Commission] started will come to an end in 5 years and we do not anticipate this is going to be a permanent Federal agency.

Senator NUNN. That is my own view. As a matter of fact, if we define the success of the Commission, it would be that we would not need permanent appropriated funds to remind us each year and that it [the King Holiday] would then be a part of America's way of life.

Senator SANFORD. I agree, and I would like the RECORD to reflect this exchange, that it is not our intention to make this a permanent matter but to make it simply a period of time to get the whole concept established.

Senator NUNN. That is exactly right. I do not speak for anyone else, but this is my view.

Madam President, it is a little discouraging, for those of us who believe in responsible government, to look back at the abundance of statements by a multitude of people, with everybody assuring that this was the last extension, that this would be the end of

it, et cetera, et cetera, et cetera—as the King of Siam was so fond of saying—only to find that such assurances were empty. But when the roll was called right here, the Senators marched in, they paid their respects to Dr. King, and made sure that the television cameras were focused on them so that everybody back home could know that they were voting for Dr. King. They were not voting for Dr. King, they were voting for a bunch of people who were—and are—confused about what to do with the taxpayers' money. And I will get to that in a minute.

Senators voted in 1989 to spend \$1.5 million of the taxpayers' money that none of them, to my knowledge, was willing to spend from their own pockets if they were asked to finance the project. Now, there may be some few in the Senate who could say, "Well, I contribute \$15 myself personally" or \$25 or whatever. But I say, Madam President, and I say it in connection with so much of the spending that goes on in this Senate and in the House of Representatives, it is always easy to be charitable when somebody else is signing the check. It is so easy to give away somebody else's money. What you are doing is you are giving away money of the young people in the next generation. It is the biggest cop-out in history.

Anyhow, here we are, it is 1994 and the song remains the same. Even though the King holiday is now observed in all 50 States—which was supposedly the original goal back when they started this organization—the King Commission is back yet again seeking another couple of million dollars more in handouts and another 5-year extension of time for the life of the Commission. And you can bet that 5 years from now it will be the same old story again. They will be back saying we need \$2 million more and another 5 years of time.

Now then, let us look at the situation as it really is. The Commission's affiliate, not legally but spiritually, is the King Center in Atlanta, I am told. It is the number one tourist attraction in the State of Georgia. And that King Center receives more than \$20 million a year in private donations which they have persuaded the major corporations of America to contribute—\$20 million.

But that is not enough. They want to continue to reach into the taxpayers' pockets and continue to use Federal employees at Federal expense to do the Commission's work. How many Senators know how many Federal employees are assigned to that project full time? How much do they make?

Well, we are going to put an audit by the world famous Arthur Andersen & Co. in the RECORD sometime during this debate that details how many and how much.

I just wonder how many Senators know, however, that when the Commis-

sion was formed, the Congress—the Congress—generously provided the Commission with Federal workers "on loan." In fact, the Commission's executive director, a fellow named Lloyd Davis, has been "on loan" from the Department of Housing and Urban Development for more than 10 years.

Now, this is not going to show up in the media. The newspapers are not going to use it, and it will be the best kept secret on television tonight. But this guy Lloyd Davis has been on the Department of Housing and Urban Development payroll for 10 years, but for the entire 10 years he has been working down there in Atlanta and drawing over \$80,000 from the Federal Government, meaning the taxpayers. That fact is not included as part of this bill or any of the previous Commission legislation.

Now, add to that, if you will, the Federal office space "on loan" to the Commission in both Atlanta and here in Washington. So the total expenditures for the King project vastly exceed the \$2 million actually called for in this bill.

Now, that is what I think we ought to put a stop to. We have been told time and time again that every extension is the last extension and after this there will be no more sticking hands in the taxpayers' pockets to fund the Commission.

Well, let us mean it this time, Senators. When you come to the floor tomorrow to vote on the amendments, do what the Senate committed itself to do not just this year, but in years past as well.

I think it would do well to read Mrs. Coretta Scott King's own words as to the goals of the King Commission. The following is from a letter addressed by Mrs. King to the former Senator from Georgia, Mr. Mack Mattingly, dated January 20, 1986. Mrs. King said:

As you know, it is one thing to work for passage of Federal and State legislation for such a holiday, another to mobilize support to set the standards for an appropriate observance and provide direction for citizen involvement and still another to finally institutionalize the holiday and maintain it.

All right, this lady actually makes most of my argument for doing away with the Commission. The Government, after all, achieved Mrs. King's first goal when Ronald Reagan signed the King holiday into law.

The Government achieved Mrs. King's second goal when it created the King Commission, ostensibly for a limited period of time.

By the way, if you read page 105 of the Commission's own report for 1993, you will see what a mendacious man Ronald Reagan was. The Commission on that page quotes from Julian Bond's 1993 King Holiday speech in Jersey City, NJ. Let me read the report:

Julian Bond, former member of Georgia's House and Senate, urged about 3,500 students

at a Jersey City State College celebration to make good on King's dream by finishing the march the clergyman started toward civil rights. When King was assassinated in Memphis in 1968, Bond said, he never "imagined support for civil rights would die as well." But, Bond asserted, "by conservative policies and appointments, President Bush and his predecessor, Ronald Reagan, have weakened the rights of blacks and the public has done nothing to stop it."

Well, that is certainly a nonpartisan statement at taxpayers' expense.

The point is this. Not one other Federal holiday receives the kind of treatment the King holiday receives—as I said, not Washington's Birthday, not Veteran's Day, not Memorial Day, not the 4th of July. On rare occasions, temporary Federal commissions are formed to honor events that will not recur, such as the Bicentennial of the Constitution and the 500th anniversary of the voyage of Christopher Columbus. As important as those events are, they should not be funded by taxpayers, and I have never voted for one of them.

Imagine, if you will, the reaction, if the Federal Government should use the taxpayers' money to tell the American people how to observe Thanksgiving or Christmas—I can hear the ACLU now—much less if the Government mandated what teachings are appropriate. I wonder how ruddy the complexion of the distinguished Senator from Massachusetts would be if that sort of thing happened.

Of course, it is not going to happen. The American Civil Liberties Union and its acolytes would descend on the Capitol like a swarm of locusts if the Government even got remotely involved in Christmas or Thanksgiving, much less Independence Day, but the same standard does not apply to this King holiday. In the Commission's own report, they say that they and they alone will decide how the King holiday is going to be observed. If you do not believe me, go across the Potomac and ask the service chiefs at the Pentagon.

As I said earlier, I do not doubt that the supporters of this legislation are sincere, but they are sincerely wrong, in my judgment. They should take a look at what is happening at the King Commission. They should learn why the King Commission has become just another Federal bureaucracy, plodding along with no real purpose or accountability to the taxpayers.

Madam President, let us take a look at the oversight report of the accounting firm of Arthur Andersen & Co., which concludes that the King Commission is badly managed and poorly led.

I am reading verbatim from the Arthur Andersen & Co.'s summary report on the King Commission itself. "Our observations"—meaning the CPA firm—"Commissioners are high level government and private officials—Significant credibility but limited availability."

Do you know how that is translated? That means they do not even show up for the meetings—"Limited availability." That is right. They do not show up.

"Lack of Commissioner, or Commissioner Representative, attendance at Board Meetings." Their charter stipulates at least two board meetings a year but the commissioners—as I say, do not even show up.

Then Arthur Andersen and Co. says the Board's various committees also do not meet regularly. Commissioners do not exercise oversight over the committees as the charter requires them to do. The executive director is the guy "forced to assume the responsibilities normally reserved for the board." That is a quote from Arthur Andersen & Co.'s report.

Then under "Current situation," the report says "Nine separate 'program-oriented' Committees exist, but do not function. Confusion exists regarding governance, roles, purpose, and authorized activities of Committees."

If anybody wants to examine that report they will find many examples of lax control over who signs the commission's checks, and lax control over cash receipts and petty cash.

This is the CPA, not JESSE HELMS, who cited these irregularities.

According to the June 1993 maintenance request, the Commission's Atlanta office building is in a shambles. Nobody is looking after it. Nobody gets anything fixed. There is an animal control problem, a possum has been living in the ground floor, trash is not picked up regularly, and Commission records have been destroyed by water pouring through a leaky roof. The King Commission's own Director of Operations reports that the back porch floor boards "are a hazard, especially to the children should they need to use it as an emergency exit."

Madam President, I do know not whether these problems have been fixed. The King Commission says it has fixed its accounting problem, although you cannot find that information in the 1993 report. But problems have built up over the years, and they bring into question whether we should continue to use the taxpayers' money to fund this or any other holiday commission at any time in the future.

Finally, Madam President, is the money in this bill, \$2 million over a period of 5 years, better spent on a King parade in Atlanta, or having the members of the King Commission staff travel first class every time they take an airline journey, or repairing the Commission's Atlanta office? Or is it better spent on the war on drugs, or cleaning up crime in public housing? I think any Senator going home and asked those two questions by his constituents would certainly respond affirmatively to the second question.

But just watch when the roll is called tomorrow, and that door opens and the

delightful little pages are holding the doors so Senators can gallop in at the last-minute. Watch how the Senators vote on this proposal to extend the life of the King Commission. And while they so vote, America will continue to lose the war on crime and the American family will continue to disappear in terms of its traditional priorities and principles.

The King Commission does absolutely nothing to address America's real problems. The King Commission has asked for more and more of the taxpayers' money, and the Senate up until now has sheepishly voted to give the money away. And as they vote, try to keep in mind that this Commission was originally created to help establish the first—and only the first—Martin Luther King holiday. That has long since been accomplished. But the outstretched hands demanding millions and millions of the American taxpayers' money, well, Madam President, forgive me but I think it is shameful that those hands are still outstretched 10 years later. But the greatest shame is that the U.S. Senate continues handing over the money with scarcely a question.

I ask unanimous consent that the report from the accounting firm of Arthur Andersen & Co. dated January 13, 1992, and a maintenance request by Mr. Al Boutin, Director of Operations at the King Commission, dated June 1, 1993 be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION, REPORT OF MANAGEMENT REVIEW—JANUARY 13, 1992

GOVERNANCE AND OPERATIONS

Evaluate Governance Issues (see attached detail discussion—Exhibit III)

Background information

Public Law 98-399—The Commission is created without funding.

Creation of the Corporation.

The Extension Act—Re-establishing the Commission with appropriations of \$300,000 for 1990-1994.

Our observations

Commissioners are high-level government and private officials—Significant credibility but limited availability.

Lack of Commissioner, or Commissioner Representative, attendance at Board Meetings.

Committees do not meet regularly and have no consistent oversight by Commissioners.

Executive Director forced to assume responsibilities normally reserved for the Board.

Recommendations

Establish a 5 to 7 person Operating Committee consisting of Commissioners with delegated authority to act for full Commission—Meet bi-monthly.

Amend the Corporation's By-Laws to incorporate governance by the Operating Committee described above.

The Operating Committee should formulate and document the express authority of

the Commission/Corporation's Executive Director.

Combine governance, operations and focus of Commission and Corporation in a formal, written document.

Perform a strategic visioning process

Develop strategic plan—
Revisit "mission" of the Commission and redefine as necessary.

Conduct visioning process—Board retreat probably required.

Prepare specific 3 to 5 year plan.
Assess current commission objectives—
Define Corporation role for private sector—vs. Commission role for Federal funding.

Conclude on location of operations—Atlanta vs. Washington is not working.

Determine steps required to conform to revised vision.

Address operating issues

Current situation—
Nine separate "program-oriented" Committees exist.

Confusion exists regarding governance, roles, purpose and authorized activities of Committees.

Determine committee focus and role—
Ensure consistency with "vision" and strategic plan.

Eliminate focus on "operating" programs—The Commission should mobilize community, not operate programs on behalf of the community.

Determine location and personnel needs—
Washington, DC, presence appears necessary—Atlanta office location probably may not be.

Personnel staffing should be consistent with strategic plan and revised operations.

INTERNAL CONTROL ENVIRONMENTAL

As part of every audit, Arthur Andersen & Co. considers the entity's internal control structure to determine the scope of our audit procedures. While we are unable to provide assurances on the internal control structure as a whole, the points listed below came to our attention in the September 30, 1991, audit that we want to make the Commissioners aware of.

Eliminate usage of corporate charge cards.
Enhance controls over the check signing function.

Enhance controls over the cash receipts function.

Require that Board Minutes be signed.

Consider employing an accountant for the Washington, D.C., office.

Segregate responsibilities in the cash disbursements function.

Consistently maintain voucher packages.

Clarify which entity's business the Minutes represent—Corporation vs. Commission.

Segregate responsibilities over the petty cash fund.

SPECIFIC TRANSACTIONS

Following is a summary of findings with respect to specific transactions brought to our attention for review.

Checks written to Lloyd Davis—We noted 3 separate checks, dated January 23, 1990, for \$20,000, January 25, 1990, for \$2,000 and August 31, 1990, for \$6,000. The first two checks were for transfers of funds from the Washington, D.C., Corporation bank account into the Atlanta Parade Fund bank account to cover expenses for the 1990 King Week Parade. Both checks were promptly deposited directly into the Parade Fund account. The third check was for the standard transfer of funds from the Washington, D.C., account into the Atlanta Corporation account. It was

also promptly deposited directly into the bank. Checks should not have been payable to Mr. Davis.

Checks written to King Center—These were for services rendered or payment of rent (\$10,000 per year). Since these checks were written on the Corporation bank account, no violation of policy occurred. (GSA must negotiate leases paid with Commission appropriations).

Check written to Jerry Jarriels—This was for moving expenses (\$2,518) consistent with a written employment agreement and supported by written estimate of United Van Lines, which was lowest bid. Also written on Corporation bank account; thus, no violation of statute.

Check written to Freedom Trail Fund—This was to transfer a \$5,700 payment, received (from DOD for publications) and deposited into the Corporation's bank account, over to the Freedom Trail bank account. This is consistent with treatment of receipts for other Freedom Trail Program publication sales. (The separate Freedom Trail bank account was closed when transferred to the Atlanta office.)

Check written to Wright-Brown Electric Company—This was to pay the invoice for services provided to prepare for the Parade in Atlanta. Also written on the Corporation bank account, thus, no violation of statute exists.

Check written to U.S. Student Association—This was a payment in accordance with a contract between the Corporation and the Association, whereby the Association prepared materials for symposia at universities.

Check written to Democracy for China Fund—This was a contribution given by the Corporation; thus, no violation of statute exists. A detail memorandum from Lloyd Davis support this \$500 donation.

Checks written to Atlanta office of Corporation—These were standard transfers of funds from Washington, D.C., bank account to the Atlanta bank account.

Travel to Santa Fe Conference—Commission funds were used to pay travel costs for Al Boutin's wife. When Lloyd Davis became aware of this, he had Al Boutin reimburse the Commission. We verified that the reimbursement occurred.

Payments to Printing Companies—The Commission/Corporation purchased printing services from B. L. Graphics and Classic Press. We noted adequate supporting documentation for these payments. We have not been able to verify whether a "related-parties" relationship exists between Corporation/Commission officials and the two printing companies.

1991 Prayer Breakfast Hotel Bill—Certain expenses for the Washington, D.C., Grand Hyatt may have been personal expenses of Ms. Madeline Lawson. This invoice could not be located, and we are unable to conclude on this matter. The amounts involved total \$493.

June 1, 1993

To: Johnny Mack

From: Al Boutin [King Commission Director of Operations]

Subj: Office Maintenance

As requested by you last week, I am writing to request that the following problems at 503 Auburn Ave. be attended to as soon as possible.

1. The electrical switch (fuse) box continually trips the downstairs air conditioning off.

2. Please check out the switch box which makes a funny buzzing sound and may be a fire hazard.

2. The roof leaks and we have water damage to books, files, furniture, etc.

3. We have an animal pest control problem. Small creatures are running around the drop ceiling and shifting the tile creating dust on the furniture. There are a number of boards missing on the siding of the house and also holes where squirrels or rodents could be entering. At one time we had a possum living in the downstairs drop ceiling area.

4. The building should be sprayed for insects on a regular basis.

5. We request that trash be picked up daily and that the office be cleaned once a week, i.e. the bath rooms cleaned, floors mopped and vacuumed, furniture dusted and polished. The trash pickup has been almost daily, however, the routine cleaning has been sporadic. We would request that a day for cleaning be designated so we would know when to expect the service.

6. We also noticed 3-4 wasp nests on the back porches which are growing. Also the back downstairs porch has rotted wood floor boards which are a hazard, especially to the children should they need to use it as an emergency exit.

Enclosed is a copy of the service agreement which covers all of the above stated concerns. Thank you for your past support and I would be happy to discuss the details of this memorandum with you at your convenience.

The PRESIDING OFFICER. Who yields time?

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Madam President, we already had some general discussion about the importance of this legislation. The Senator from North Carolina has raised a number of issues, many of which are quite specific, and I am afraid that there is unfortunately an awful lot of misleading if not inaccurate information given to the Members of the Senate who may be listening to this debate. So I will attempt now in response to go point by point to illustrate the inaccuracy of those comments, and the misleading nature of some of the objections that have been raised by the Senator from North Carolina.

To start with one point, the Senator from North Carolina has essentially confused or suggested there is a connection between the Martin Luther King Center and the King Federal Holiday Commission.

In the first instance, I will point out that the full name, the accurate name, of the Martin Luther King center is Martin Luther King Center for Non-violent Social Change. I think it is important that the Members be aware that the Martin Luther King Center for Nonviolent Social Change is a free-standing, independent entity, separate from the Commission that is currently at issue with this legislation.

Second, the Senator from North Carolina says the legislation is seeking a couple million more in terms of its reauthorization. In the first instance, we are not seeking to authorize indefinitely the King Federal Holiday Com-

mission. The authorization in this legislation is for 5 years, and \$300,000 a year for the first year of those 5 years, with a total appropriation of \$2 million.

With regard to this, as you are well aware, the process is such that we have to have legislation authorizing an appropriation first, and then the actual appropriation has to be appropriated by, among others, the distinguished Presiding Officer, the Senator from Washington. It is a matter that will come before the Appropriations Committee to determine how many dollars specifically of the amount that is authorized will be dedicated to this purpose. That will give not only the Senators who are members of the Appropriations Committee, but indeed the Senator from North Carolina, an opportunity to address the specific issue of how many dollars and what funding will be made available for the activities of the King Federal Holiday Commission.

In the third instance, with regard to the activity of the Holiday Commission, I think it is important to focus on the fact that some of the opposing statements made and cited by the Senator from North Carolina really do not relate to the activities of this Commission. As Senator WOFFORD so eloquently pointed out in his remarks, and as I pointed out in my remarks earlier, the work of the Commission really is focused on promoting those values having to do with nonviolence, having to do with racial harmony, having to do with giving young people some sense of the history and why nonviolence is important, why racial harmony and cooperation is important. And some of the quotes, unfortunately, made by the Senator from North Carolina, I think obscured the mission of this Commission. It is not a function of just having the holiday and then forgetting about it and letting it go on a calendar somewhere, but rather keeping the dream alive, if you will, by providing a basis and providing a forum for training young people for the dissemination of information and about the importance of Dr. King's work.

I daresay there is no one in this Chamber who would deny the importance of that work. In fact, I have on my desk a collection of speeches by the late Dr. Martin Luther King. It describes on the cover, "The Speeches That Changed the World." They did change the world and this country, and they have made it a better country for all Americans.

That is an important thing to communicate as an educative, socializing tool to young people, many of whom were not alive when Dr. King was around. In fact, I asked some of our pages whether they remembered Dr. King, and most of them were born after Dr. King was assassinated. I think it is important that we communicate to

this generation of young people why nonviolence is important, why interracial harmony is important, and what are the foundations of the movement Dr. King started not only here in America, but also for the rest of the world.

The third point made by the Senator from North Carolina that I think is important to dispel, again, is the specific point that was made when he called this legislation a "mandate." Madam President, nothing could be further from the truth. This is not a mandate. The dissemination of information is not a mandate; training of young people is not a mandate; working in the community for positive social values is not a mandate. No one is being forced to do anything under this legislation. Indeed, this legislation, by reauthorizing the work of the Commission, will hopefully provide the basis for increased voluntary activity in the community and not otherwise.

(Mrs. FEINSTEIN assumed the chair.)

Ms. MOSELEY-BRAUN. Another point the Senator from North Carolina made had to do with the financial and the specific operations activities of the Commission. He stated that this is not a vote for Dr. King or Dr. King's holiday, but for a bunch of people who are confused about what to do with taxpayer money. I daresay that in all of the reviews of the activities of the Commission, they have received very high marks for the use of both private and public funds and the operation of the Commission. The Arthur Andersen audit that was done of the Commission activity found no intentional wrongdoing or fraudulent practices. It recommended improvements that could strengthen the practice of the Commission. But then any audit conducted of any corporation could certainly find areas for improvement. None of us are perfect; we can all improve.

This organization has done a salutary job of dispensing the trust and the confidence of the people—not only of the United States—who contribute privately to the activities the Commission has given it.

For the record, I ask unanimous consent that a letter from two Members of Congress, TOM SAWYER and RALPH REGULA, who serve as members of the board, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 6, 1995.

Hon. HARRIS WOFFORD,
Dirksen Senate Office Building,

DEAR SENATOR WOFFORD: Recently, it has come to our attention that concerns have been raised about the financial operations of the Martin Luther King, Jr. Federal Holiday Commission.

As long-time members of the Commission, we want to put those unfounded concerns to

rest. The Commission, established in 1984, has operated in a financially sound and responsible manner. In fact, in 1991, the Commission created an Operations Committee to review all aspects of the Commission's internal practices. The Operations Committee was composed of several distinguished Commissioners, including the Honorable Judge William Sessions and the Honorable Jack Kemp.

While the Operations Committee did not find any major flaws in the way the Commission carried out its responsibilities, it made several recommendations on how the Commission could strengthen its management practices and operational procedures. The Commission also is audited annually by the Arthur Andersen Company. In 1993, Arthur Andersen made several recommendations on how the Commission could strengthen its financial practices.

In response to the constructive suggestions of both the Operations Committee and Arthur Andersen, the Commission immediately took steps to streamline its management structure and ensure appropriate controls over the flow of funds.

We are confident that the King Commission, under the able leadership of Mrs. Coretta Scott King, has never engaged in any practice that would suggest the misuse of funds. To the contrary, the King Commission is an excellent example of an organization that has carried out its mission admirably with only a modest amount of federal funds.

We urge the Senate to move expeditiously to reauthorize the King Commission for five years.

Sincerely,

THOMAS C. SAWYER,
Member of Congress.
RALPH REGULA,
Member of Congress.

Ms. MOSELEY-BRAUN. They go on to say, as long-time members of the Commission:

We want to put those unfounded concerns to rest.

They are referring specifically to financial operations.

The Commission, established in 1984, has operated in a financially sound and responsible manner. In fact, in 1991, the Commission created an Operations Committee to review all aspects of the Commission's internal practices. The Operations Committee was composed of several distinguished Commissioners, including the Honorable Judge William Sessions and the Honorable Jack Kemp.

Finally—and I see my colleague from Pennsylvania, who has some points and observations to make in this regard—the Senator from North Carolina said that he thought it was "shameful" that we were "still looking to the Federal Government for support of the work of this Commission." I think it would be shameful for us to do anything other than to pass this legislation and reauthorize the work of this Commission.

The fact is that there are young people—and he mentioned the students leaving the building—that the work of this Commission has touched in a positive way. Our own colleague, BILL BRADLEY, just last week gave a major address on the cost of violence in this society.

It seems to me that by making a modest investment in the work of the

King Commission, we will be able to save some of these costs. It is a classic example of a stitch in time saving nine. We can make the step by authorizing the positive, constructive work of this Commission and save any costs associated with violence, save any costs associated with antisocial behavior, save the costs associated with a generation of young people who may not have access to information regarding the kind of positive values, about values going to nonviolence, to cooperation, to conciliation, to mediation, to working together, that the King Center has spent so much time working to distribute and has done so in a positive way.

Finally, Madam President, I want to point out that the notion that there is some trick here, and that the legislation was originally passed with a commitment that the holiday would pass and that would be the end of it, is an unfounded and unfair notion about the legislation, the Commission, and the intent of the sponsors here.

When the legislation creating the King holiday was first passed, there was in fact a discussion at the time that the Commission was to expire in 1986. However, from 1986, it has been reauthorized, and the reason it has been reauthorized has had to do with the efficacy and the importance of the Commission's work. The fact that it was only established for a discrete period of time in the first instance by no means was meant to preclude a continuation of the work should that work be found to be necessary.

I do not think anyone in this Chamber, indeed in this country, would say that the work of the King Center is no longer necessary. We still have the same crises and issues, and we have a need, I believe, to communicate to our Nation that interracial cooperation is an important value, that value in humanity is an important value that we should talk about, disseminate, and educate our young people about. The interests in preserving and promoting nonviolence as a way to respond to concerns is an important value that the King Commission has sought to promote, and it is important for us to continue to promote that.

Therefore, in its wisdom, the Congress has decided to extend the Commission. It was not in opposition to any commitments or any promises made at the time it was initially set up. We found that the problem really does command our continued attention, and it continues to be important to our country. And because of that continued importance, Senator WOFFORD and I, of course, as a cosponsor, introduced this legislation.

The need is as great now as it has ever been. I daresay it might even be greater, because those of us who are old enough to be Members of this Chamber were around to understand and to hear and learn from the lessons

Dr. King sought to bring not only to this country, but to the world. I daresay that in all the time which has transpired since his death, there is another generation that needs to learn the same lessons.

The King Holiday Commission makes it its mission to make certain that these young people are not denied the benefit of those lessons and the help that the lessons and the information coming out of that center about Dr. King's work and his mission can provide to them.

So I submit to the Members of this body that we have a real need to continue with this legislation, to reauthorize the activities of the King Federal Holiday Commission, and I therefore encourage my colleagues to oppose the motion by the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. Madam President, the Senator from Illinois has hit the nail on the head. She has hit the nail twice on the head.

If I can hammer two of those points even further in, the first is the letter now in the RECORD, which was just put in the RECORD by the Senator from Illinois from the chairman of the subcommittee that has oversight of the King Commission, THOMAS SAWYER, Representative SAWYER, and a ranking Republican on Appropriations, RALPH REGULA. They dealt with the very points that the Senator from North Carolina was making.

I think it is very important to emphasize that in response to the very helpful Arthur Andersen latest report in 1993 and the very specific recommendations as to how the Commission could strengthen its practice, the Commission took immediate constructive action to streamline its management structure and its operations committee that includes the very active participation of the Honorable Judge William Sessions and Jack Kemp. So we are getting a report from those who are charged with overseeing the Commission that they are dealing with the very matters the Senator from North Carolina talked about.

In the same sense, the Senator from North Carolina took us back on what he called legislative history and gave us a few more of the debates that were heard in this body before I was here, the last time in 1989, and restated the arguments made in those debates. That is exactly what he has done today. He has restated a debate that was debated thoroughly in 1989 when it was decided to go forth with the modest support that the Commission has been given. I cannot imagine that the turn of events in this country suggests that the reasons that led the overwhelming majority of Members of this body to support by a vote of 90-7 the work of this Commission, I cannot imagine the events in

this country are saying that the work of this Commission is less needed.

The Senator from North Carolina said the song remains the same—we are hearing the same old song. And in a sense he is right, he is singing the same tune as in 1989, rehashing the same debate.

Well, I only wish, Madam President, that the same old song of Martin Luther King: black and white together, working together, hand in hand together, we can overcome, overcome the problems of violence and overcome the problems in our cities today—I cannot imagine a song I would rather hear sung again not so much by people marching but by people working together. And that is the point of this reorganization which is to give a renewed mandate to the Commission to go beyond what we have had in the past and to make this a day when we are working, black and white together, hand in hand together, getting our hands dirty dealing with the problems of our communities, showing that we can make a difference. That is the song we need to hear in this country, and this Senate can strike the right note by the right vote, by not cutting off all funds for the Martin Luther King Holiday Commission. What a signal to the world that would be by going on and making this a day of service, a day on and not a day off.

I yield to the Senator from Illinois if he is ready to speak.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Madam President, I rise in strong support of this legislation that my colleague from Illinois is handling. I agree with Senator WOFFORD and Senator MOSELEY-BRAUN that to say we are going to have a Commission but we are not going to fund it would be the worst kind of message that we could possibly send.

It is a world where we need, as Senator WOFFORD and my colleague have said, where we need this message, and all these things tie in together.

What happened in South Africa just a few days ago in part is a reflection of the leadership of Martin Luther King. Senator MOSELEY-BRAUN and I had the privilege of being down there for that inauguration. That night, the last ceremony we were at, we joined hands in singing "We Shall Overcome," the same song we have sung and used to sing, particularly during the civil rights struggle.

This also happens to be very close to the 40th anniversary of the Brown decision. The Brown decision did not work in every way like we had hoped, but Martin Luther King's efforts would not have been possible without the Brown decision. His success would not have been possible without that Brown decision.

While the Brown decision has not worked in terms of integrating our so-

ciety as fully as many of us expected and hoped at that point, there is no question we are a better society because of that Brown decision.

I come from southern Illinois. We had segregated schools long after the Brown decision. Across the State in Missouri we had segregated schools as late as 1973, 19 years after the Brown decision.

(Mr. WOFFORD assumed the chair.)

Mr. SIMON. I also ask myself how would Martin Luther King like to have this day observed. I had the privilege of knowing him slightly. In fact, I met Martin Luther King the same day I met HARRIS WOFFORD, now the Senator from Pennsylvania. I was in my second term as a State legislator in Illinois taking stands that southern Illinois legislators were not accustomed to taking and Martin Luther King asked me to come down and speak at the anniversary of the bus boycott. When I got down to Montgomery, I met this young fellow, HARRIS WOFFORD, who was also interested in the civil rights struggle.

I remember meeting Martin Luther King. We arranged to meet at the St. Louis airport. We flew down to Atlanta together and then over to Montgomery. And when we got to Atlanta, we walked off the plane. There were these signs: White, colored. And I felt dirty. It was so offensive.

We have moved away from that. We have not moved as far as we need to move, but we have moved away.

But I do not think Martin Luther King would want an occasion where we would just all stand up and praise Martin Luther King.

What we have to do is reach out to one another. I would love to see maybe the Sunday before Martin Luther King's birthday that all Americans have churches, synagogues, mosques and temples and civic organizations and political leaders urging people to reach out to one another.

How many white families in this Nation have never had an African-American family over for dinner? How many African-American families have never had a white family over for dinner? How many Christian families have never had a Jewish family over for dinner? And the other way around? Today, we have more Moslems than we have Presbyterians in this country. Are we reaching out to one another as we should be? We have more Buddhists than we have Episcopalians. What do I know about Buddhism? Not as much as I should. We ought to be reaching out so we understand one another.

I think that is what Martin Luther King stood for, and I would love to see the Commission in some way move us in that direction.

I see my colleague from Illinois standing up, and she wants to add a word here, I am sure, and I will yield to her.

Ms. MOSELEY-BRAUN. Mr. President, I thank very much the senior Senator from Illinois. His comments reminded me of one of the most vivid reasons why this Commission is important and why Senator WOFFORD's initiative in this area is so important.

I suppose, because I was engaged in a rather lawyerly kind of response to the technical issues, I have failed to really talk about this in another sense, in the sense that my distinguished senior Senator has raised. I would like to take a moment, if I may, just to reminisce with you and to share a personal story of my own with regard to Dr. King.

When Dr. Martin Luther King came to Chicago many years ago—and I do not exactly have the actual year it happened—I was no older at the time than one of the pages might have been, a little bit younger. My mother suggested that I not go on the march because she was afraid there might be violence and there might be a problem. Of course, being a teenager and knowing everything, I went to the march anyway.

So I went to the march. I can remember marching with—actually my marching partner was a white male who was a veteran of the civil rights marches in the South. As we marched through this particular area on the south side, the bottles were flying and the rocks were flying, and my partner was hit with a rock. He took a handkerchief out and stopped the blood from flowing. I remember being just absolutely horrified to see bloodshed when this was just a peaceful demonstration, singing "We Shall Overcome," marching down the street.

Then we got to the middle of the park and the rocks and bottles really were flying quickly at this point and really a dangerous situation. So, in keeping with the response that had been used by the civil rights activists in the South, they put the women and the children in the center of the circle and then the men around that and then the veterans around that.

And I am sure, Senator WOFFORD, you have probably seen that formation.

Being both a woman and a child at the time, I was right in the center and, frankly, within touching distance of Dr. King. The rocks started coming, and he was actually hit with a flying object at this particular time.

I can remember being on my knees, with my hands over my head like this, which was a formation that they told us to assume, on my knees with my hands over my head and I was really angry. My first reaction was, I am going to pick up the next rock that comes in here and I am going to throw it back.

And then I saw from his presence, from his example, in what can only be described as a personal epiphany for me, that the reason he was not throwing rocks back and the reason non-

violent protest in behalf of positive values was so important, that by capturing the moral high road, by continuing to make a point based on right and making it in a way that was consistent with those values that say we value each other's humanity, that violence has no place in that, in that way Dr. King was winning the battle, even though the rocks were coming at us.

So thousands of us who were on our knees were really in a stronger position than those faces and voices of hate who were throwing rocks at us and trying to deny the civil rights that we had come to march in behalf of.

And I raise all that because, again, the comments of the Senator from Illinois reminded me of it. Because if there is no other reason for this Commission, it is that we can provide to young people precisely that kind of epiphany that says to them that non-violence is important because it is predicated on a respect for the humanity of another person; that coming together in interracial cooperation is important because, putting aside all of our differences, underneath it all we are still brothers and sisters to each other. As the Senator from Illinois mentioned, in South Africa we heard a choir in Pretoria that sang last week, which was that, although we are different from one another, be proud of your heritage but know that you are my brother.

And this was coming from an interracial group of South Africans who are themselves now trying to craft a multi-racial, pluralistic society based, they believe, on what we have here in the United States.

So if we are to maintain our leadership in the world in behalf of interracial and multiethnic cooperation in behalf of developing a pluralistic society, then we can do no more, it seems to me, than to continue to hold up the values that Dr. King espoused in behalf of those goals.

And those values and the information about those values is precisely what the Federal Holiday Commission does. That is why, in the final analysis, it is so important and its work is so important.

I thank my colleague and I thank my colleagues for their indulgence for this little personal reminiscence. But the words of the Senator from Illinois reminded me of how important Dr. King's lessons were for me as a youngster. I was fortunate enough to be there. These youngsters—he is no longer with us—cannot have the exact same experiences, but we certainly can make sure that they have the information and that they have the lessons that came out of that noble period of our history.

Mr. SIMON. Mr. President, I thank my colleague. I never heard her relate that story before in the many years that I have known CAROL MOSELEY-BRAUN.

She used one other phrase that is important to keep in mind—the moral high ground. That is what we have to try to achieve, however imperfectly we achieve it.

I think it is worth reminding ourselves also, as we talk about Martin Luther King, his last effort was in behalf of custodians—janitors, if you will—in Memphis, TN.

We have a country today where 23 percent of the children live in poverty. There is no other Western industrialized country that has anything like that. I am just certain, if Martin Luther King were alive today, he would say this good, great country can do better than that. That is also part of the moral high ground that we ought to be sensitizing ourselves to.

I thank my colleague from Illinois and Senator WOFFORD for their leadership.

I see Senator FEINSTEIN is going to say a few words here.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, I rise in support of Senator MOSELEY-BRAUN, Senator SIMON, and yourself, Mr. President, in putting forward H.R. 1933.

Mr. President, let me speak first as a Californian in support of this legislation. I believe that if you ask people in California what two major issues they care most about, one would be the economy and the second would be reducing violence in our society.

There is no Federal effort to my knowledge that speaks more eloquently to the problem of violence in our society than does the King Holiday Commission. Not to extend its life at a time when the real need to reduce violence in America is on everyone's mind would be incomprehensible to me.

Mr. President, it is appropriate that you are in the chair during this debate. You were widely quoted last January in a Washington Post editorial entitled "The King Holiday, 10 Years Later," which spoke highly of what you and Senator MOSELEY-BRAUN are trying to accomplish here. You suggested, simply and eloquently, that Dr. King's birthday be observed in the future as a "day on," not merely a day off. Nothing could be more fitting.

If I may, I ask unanimous consent that this editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, let me tell you how we mark this holiday in my home city of San Francisco as a day on, not a day off.

We have in our city a very special man. His name is Dr. Cecil Williams,

reverend to the Glide Memorial United Methodist Church. This is a huge church with a congregation of more than 3,000 people. People come into the Tenderloin of San Francisco from all over the Bay Area every Sunday to celebrate nonviolence, to celebrate the rehabilitation of the human soul. It is a church that truly ministers to the neediest among us, those who are down and out, those who have problems with drug addiction, who are homeless, who have been violent. It is a "turn-around" church.

Reverend Williams is the chairman of the Martin Luther King Holiday observance. On that day, a "Freedom Train" brings people from all over northern California into San Francisco. They march from the train station, through downtown, and on to the Civic Auditorium where they hear people from all walks of life speak about the message that Martin Luther King, Jr., tried to carry to this world, the message of nonviolence.

As Dr. King said—and this is often quoted on those birthday celebrations:

Peace is not merely the absence of some negative force, it is the presence of a positive force. True peace is not merely the absence of tension, but is the presence of justice and brotherhood.

Can anybody say that justice and brotherhood abound today in this land? I think not. Can anyone reasonably or thoughtfully say that now is the time to end this Commission? I think not.

This Commission works with just two paid staffers. The Commission has worked at very modest cost for the past five years and, I am confident, will continue to do so for 5 more years when this bill is approved. It can do so much and deserves our support.

I hope for a new thrust against violence in our society. Dr. King also said, "violence is the voice of the unheard." I think all of us here would agree that voice has grown louder in the 30 years since he spoke that truth. More than 100,000 schoolchildren are estimated to take guns to school every day. Another 160,000 stay at home because they are afraid of the 100,000 who take guns to school every day.

I hope, and would sound as a mission for it in the future, that this Commission takes up this cause with renewed vigor—that it spread Dr. King's message of nonviolence from school to school, from State to State, all across this Nation. It is time we reach out to this generation, and the next, to show them that nonviolence can be a powerful weapon, too. As Dr. King called it, "a sword that heals."

The King Holiday Commission has already enlisted over 27,000 children in its Youth Against Violence Campaign. It has gone school to school and child to child to recruit them in the battle against violence. The Commission also has convinced 4 million more, 4 million additional youngsters, to commit

themselves to a life of nonviolence. That is the kind of work that can make a difference: child to child, school to school, State to State. Every youngster who says "I will not be a part of violence in this Nation" makes a difference.

When the King Holiday Commission has completed the five years of new work authorized and supported by this legislation, I hope that there will be 4 million more youngsters who have said that they too will not be a part of violence in this Nation. Think of the difference that will make.

Many of the people in my State believe that California is going in the wrong direction, primarily because of violence in our society. I am confident that the King Holiday Commission can help ease the fears of people in my State and across the Nation by helping to break the cycle of violence that has already claimed far too many of our children.

If anyone can succeed in this task, it is Coretta Scott King, whom I know well. I know her personally and as a public figure. I know, most of all, her total dedication to sustaining and teaching the ideals of Martin Luther King, Jr. There can be no better tribute to Dr. King, and no higher aim of the King Holiday Commission, than sharing his ideals with the children of America.

I am truly amazed that there are voices in this Senate who say, "Let us end this Commission. We do not have to work toward nonviolence in our society. This Commission should not be reconstituted. This Commission should not continue to be funded." I feel exactly the opposite.

I stand today in support of your efforts, Mr. President, and those of my friend and colleague, Senator MOSELEY-BRAUN, to see that the King Holiday Commission's critical work can and will be continued at this critical time.

If there is to be a continuing mission for this Commission, let it be the education of our children in Dr. King's message of nonviolence. If the Commission is to pursue any goal over the next 5 years, let it be the recruitment of 4 million more youngsters who are willing to say that violence is not the way. If there is a day for Senators to stand and be counted in support of the King Holiday Commission and the rededication of Dr. King's memorial day, let it be this one. And, if there is to be a day in tribute to Dr. Martin Luther King, Jr.—as I hope and trust there will always be—let it be, as you have said, Mr. President, a day "on," not merely a "day off."

I thank you, Mr. President, and I thank Senator MOSELEY-BRAUN for bringing this issue to the floor of the Senate. I want you to know that our hearts and our voices are with you.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Washington Post, Jan. 17, 1994]

THE KING HOLIDAY, 10 YEARS LATER

America in 1994 is not the same place Sen. Harris Wofford described at the beginning of his constructive column on yesterday's op-ed page. The southern laws which sanctioned a dual society, the racially discriminatory places of public accommodation, the state-sponsored voting rights barriers—they've all been swept away. Rev. Martin Luther King Jr., whose birthday is honored today, and the powerful civil rights movement he led deserve much of the credit for that transformation.

Twenty-five years after his death, and a decade after the inauguration of the holiday in his name, it is said that if Dr. King could witness the carnage that is taking place on American streets today, he would be devastated. That is undoubtedly true. But we don't believe his sadness would be confined to the presence of violence. Neither do we believe that crime would be the only problem he would expect this country to be grappling with today.

Appearing at the Mason Temple Church where Dr. King spoke in Memphis the night before he was killed, President Clinton told an audience made up largely of black ministers that "the freedom to die before you're a teenager is not what Martin Luther King lived and died for." Mr. Clinton speculated that if Dr. King witnessed the wave of crime sweeping the country today, he would say, "I did not live and die to see the American family destroyed." We can't know if that is what Dr. King would say. But we do believe, based on what Dr. King was preaching about the night before his death, that his concern about conditions in today's Memphis as well as in other American communities would include street violence, and more.

It's not likely that Dr. King, driving in from the airport to Mason Temple, would have ignored the urban decay, the boarded and dilapidated houses, the homelessness, the closed shops in downtown Memphis—all stark evidence of what he called on his last night the "long years of poverty, their long years of hurt and neglect." Nor would Dr. King miss the reality in today's America of what he referred to in Memphis 25 years ago as "God's children here suffering, sometimes going hungry, going through dark and dreary nights wondering how this thing is going to come out." It was, he said, "the issue," adding: "And we've got to say to the nation: We know it's coming out."

Sen. Wofford and Rep. John Lewis, who share Dr. King's outlook all these years later, have sponsored legislation aimed at making the King holiday more than another day off for shopping or resting. They would have the federal holiday become an active day of community service and nonviolent action—the true legacy of Dr. King's life. That last night in Memphis, the man we honor today told the story of the good Samaritan, but in his own way. He said that maybe the man who fell among thieves was left behind by the two upstanding passers-by, because they were too busy. Or he said maybe "they felt that it was better to deal with the problem from the causal root, rather than to get bogged down with an individual." Or maybe, said Dr. King, they were afraid; they thought the injured man on the ground was merely faking and would harm them. The question of one passer-by: "If I stop to help this man, what will happen to me?" was the wrong one to ask, he said. The good Samaritan, the one who got down from his beast and gave assistance, asked himself: "If I do not stop to help

this man, what will happen to him?" That was the right one, Dr. King said. The good Samaritan "decided not to be compassionate by proxy," preached Dr. King. Sen. Wofford and Rep. Lewis are right to believe that that is the way the King holiday should be observed.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Madam President, I am going back and forth to meetings like a tennis ball, as most Senators are, I believe, most of the time, but I did manage, while doing a little work in my office, and meeting with some foreign dignitaries, to hear some criticism of my amendment.

For example—well, let me go back. I wondered which amendment they were talking about, including, if you will forgive me, ma'am, the distinguished Senator from California. I have no argument with the Commission. My problem is somewhere, sometime we have to get a handle on how much of the people's money we are going to spend and for what purposes. My amendment does not eliminate the Commission, it returns it to its original condition as a privately funded group, with officials appointed by the Government.

Questions were raised that had no relevance to the amendment, either one of them. Now, I think it was the Senator from Illinois who said that I had said that the King Commission was part and parcel of the King Center. I said no such thing. I know better than that.

What I did say was that the King Commission and the King Center share many of the same officers and directors. As a matter of fact, the King Commission, if I recall correctly, has only two employees on its payroll, the rest are "on loan" from Uncle Sam.

The King Commission has only 2 employees, but there are also 11 full-time Federal employees assigned to the Commission. Now, the Center and the Commission share many of the same officials, and what I did ask was why should we pay for the King Commission when the King Center could easily come up with \$2 million. The King Center receives about \$20 million per year in voluntary contributions.

As I said, I may be old fashioned, but I think the folks that run the King Center could come up with another \$2 million for 5 years to fund the Holiday Commission as well. As a matter of fact, the Commission raised its funding privately in 1985, did they not, I would ask the manager of the bill?

They raised the money privately in 1985, is that right?

Mr. WOFFORD. The King Center always raises its money privately.

Mr. HELMS. Did the Commission, not the King Center, raise its own funds in 1985?

Mr. WOFFORD. It did.

Mr. HELMS. Did it raise them in 1986?

Mr. WOFFORD. Yes.

Mr. HELMS. Did it raise them in 1987?

Is the answer in the affirmative?

Mr. WOFFORD. I believe the action—the last time this Senate voted on the question of ceasing the funding for the Commission was in 1989, when a similar motion was defeated 86 to 11.

Mr. HELMS. I do not believe I inquired about that, but that is a fact, and it is probably going to happen again. But it does not make it right, I say to the Senator. It needs to be debated. It needs to be analyzed. I did not say that this was a permanent extension of the Commission. I said that the Moseley-Braun version of the bill, which is not before the Senate, does continue it indefinitely. Now, the House bill, which is before us, stipulates an extension of 5 years—another 5 years, I might add.

So 95 percent of what has been said in my absence—I have tried to hear what I could of it, and I have caught part of it in my office and then I have checked with people who have taken notes for me—about 95 percent was just as I predicted when I made my opening remarks; that there would be eloquent speeches not relevant to the bill nor relevant to either of the two HELMS amendments.

But that is the way we do things around here. We do not debate the specific issue at hand. We make political speeches appealing to the people we want to appeal to and that sort of thing. And I have to say it was very appealing to hear about people's childhoods and all the rest of it. I could probably raise some tears to people's eyes were I to relate some aspects of my childhood during the Depression but that is not relevant.

What I am talking about is spending the taxpayers' money on the commitment that has been made by individuals in the leadership of this Senate, year after year, that the funds will end in 5 years, and here we are proposing 5 more years.

Now, that is what is relevant, not whether somebody is in favor of not having violence. We are all not in favor of having violence. We have it in North Carolina, too. Thank the Lord we do not have as much as California. And you need to do something about that, Senator FEINSTEIN. And I am not sure that the King Center or the King Commission will do very much about the problems in California or North Carolina.

Now, the Senators from Illinois and Pennsylvania noted that those who spoke on this issue in 1984, 1986, and 1989 never said that this would be a temporary, privately funded Commission.

Now, I did not hear them say that, but it was reported to me that that is

what they said. Well, they better tell that to SAM NUNN. And they had better tell it to BOB DOLE and others who the CONGRESSIONAL RECORD shows felt in 1984, 1986, and 1989 that the King Commission would end and that it would not go on forever as the Moseley-Braun bill, introduced last year, planned.

Now, when this Commission was reauthorized in 1986 and 1989, the Senators in the leadership positions got on this floor and told each other and told the Senate—and it is in the RECORD—each time that this was going to be the end of the Commission and its Federal funding.

Now, the point is that the Commission can raise funds privately and it ought to do so. But, no, once Uncle Sugar got into the business of giving them the money, they did not want to have to raise private funds anymore.

Now, someone needs to explain to me why we do not go back to the old system and let them raise money.

Now, there are 11 permanent Federal employees making \$75,000, \$80,000 a year—let me see the book. Why not go down the list?

The Commission's staff includes—I have already referred to him—Lloyd Davis, Executive Director. He is on loan from the U.S. Department of Housing and Urban Development; Mary Coleman, Administrative Assistant of the FBI and U.S. Department of Justice; somebody named Fisher, administrative assistant, of the Food and Nutrition Service of the U.S. Department of Agriculture, full-time; Edison Horne, Director of Law Enforcement Involvement Programs, FBI, full-time; Lisa Irby, an accountant with the Internal Revenue Service, U.S. Department of the Treasury, of course, full-time; and so on.

I ask unanimous consent that the rest of these names be printed in the RECORD at this point rather than take up the time of the Senate.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Gerrie Maccannon, Executive Officer (Public Health Service, U.S. Department of Health and Human Services).

Sheila Ricks, Special Events Coordinator (Census Bureau, U.S. Department of Commerce).

Juanita Sims, Finance Intern (Internal Revenue Service, U.S. Department of the Treasury).

Faye P. Singh, Youth Assembly Coordinator (Fort Valley College [Georgia], Extension Service, U.S. Department of Agriculture).

Dr. Joel Scobitsky, National Youth Program Coordinator (Extension Service, U.S. Department of Agriculture).

Katie Taylor, Secretary (Fish and Wildlife Service, U.S. Department of the Interior).

Mr. HELMS. I thank the Chair.

Now, Madam President, we have an interesting parliamentary situation, and I agreed to it this past Friday, hoping to expedite the situation as a matter of convenience to Senators. I agreed to a then-proposed unanimous

consent agreement that all amendments would be offered and debated today and voted on tomorrow.

I ask the Chair, or the Parliamentarian through the Chair, if I am not correct about that.

The PRESIDING OFFICER. The Senator is correct. That is what the agreement provides.

Mr. HELMS. I thank the Chair, and I thank the Parliamentarian.

Now, I am going to ask unanimous consent to lay aside the Helms first-degree amendment and the second-degree amendment, of course, so that a third amendment can be offered.

The PRESIDING OFFICER. Is there objection?

Mr. WOFFORD. I would like to suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WOFFORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the request?

Mr. WOFFORD. No objection.

The PRESIDING OFFICER. Without objection, the two amendments are set aside.

Mr. HELMS. I thank the able Senator. I thank the Chair.

AMENDMENT NO. 1740

(Purpose: To end the practice of having Federal civil servants detailed to the Martin Luther King, Jr. Federal Holiday Commission for years on end)

Mr. HELMS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1740.

The amendment follows:

On page 2, strike lines 20 through 24 and insert the following:

(3) in section 6—

(A) in subsection (a) by striking "maximum rate of pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "rate of pay for level IV of the Executive Schedule under section 5315"; and

(B) in subsection (b)(1) by adding the following at the end: "A person who has been detailed under the preceding sentence for as many as 365 days (continuously or intermittently) may not subsequently be detailed to the Commission."

Mr. HELMS. I thank the clerk.

Madam President, further working our way along in this complicated fix we are in because of the unanimous-consent agreement, I think under the rules, or certainly under practice and precedent, it is possible that the manager of the bill and the Senator from North Carolina can obtain the yeas and nays. We can get the yeas and nays at

some time. I would like to get that out of the way.

So I ask unanimous consent that it be in order to ask for the yeas and nays on all three of the Helms amendments thus far offered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank my colleague. I do not always agree with him, but I like him.

I will not comment on my friend from California. But she knows how kindly I think of her.

This amendment is simple. What it proposes to do is prohibit any official, officer, or civil servant of the U.S. Government—that is, Federal bureaucrat—from serving on loan to the King Holiday Commission for more than 1 year. After 1 year employees on loan to the Commission must go back to their regular jobs.

It does not—let me emphasize, not—prohibit Federal agencies from lending employees to this Commission. It simply ensures that they will promptly return to the job which the taxpayers expect them to do. I think this is a fair request.

Madam President, even before the King Commission began receiving Federal funds up front in 1989, the taxpayers were footing a pretty hefty bill for its operations. According to the King Holiday Commission's 1988 annual report:

All of the Commission's staff, except for the Executive Director, were provided on a nonreimbursable basis by Federal agencies * * *

That is back-door financing.

Most Senators probably do not know that the salaries of the majority of the employees of the King Commission are paid for by the American taxpayer. Let me read down the list of some of the staff and the departments providing the King Commission with their services, as listed in the Commission's 1993 annual report. I have read some of them before but let's review it again.

Lloyd Davis, Executive Director—HUD.

Mary Coleman, administrative assistant—FBI.

Vash Fisher, administrative assistant—Agriculture.

Ed Horne, law programs—FBI.

Lisa Irby, accountant—IRS.

The list also includes officers from the Public Health Service, the Census Bureau, the Fish and Wildlife Service, and the Agriculture Extension Service.

Let me say, before somebody raises a question, that I know that it is not unusual for Federal agencies to loan other agencies personnel for a short pe-

riod of time. The practice is common in the Armed Forces and in Federal law enforcement. What makes the King Commission situation so extraordinary is that some of the officials on loan to the Commission have become permanent fixtures within this organization.

Surely the Senate is going to accede to my suggestion that we stop that practice and limit the loan to 1 year. It is going to be interesting to see how the votes go on this.

Let us take a look again at the Executive Director of the King Commission, Mr. Lloyd Davis. Mr. Davis is an employee of the Department of Housing and Urban Development. I do not know what duties Mr. Davis performed at HUD and for all I know he did a good job there and does a good job with the King Commission, although he is prominently mentioned in the Arthur Andersen 1992 audit of the financial problems that the King Commission has experienced during its existence.

So something is amiss. Whether it is Mr. Davis' fault, I do not know. I do not know how many hours a day he spends, if any, at the Commission. I do not know whether he flies first class when he travels on the King Commission's airline ticket. But Mr. Davis, as I have said two or three times, has been "on loan" to the King Commission since the time of the creation of the King Commission in 1984.

Now, I have run a department of a major city newspaper, a news operation, and a television station. I have been executive vice president of a broadcasting company. And if I had "loaned" employees from another section of my company for over 10 years, I think the board of directors would have said, "Mr. HELMS, come in. We need to talk to you a little bit." I would consider that individual to be a permanent part of my staff. But Mr. Davis is not a permanent part of the King Commission, at least not insofar as the records are concerned. He may have that understanding with the King Commission. There is nothing in writing. But he is still being paid by the Department of Housing and Urban Development, and nobody figures that salary in.

Mr. Davis, according to the records that we have checked very carefully, is paid by the taxpayers more than \$85,000 a year, not including any allowances that the Government gives him to live in Atlanta while he is working for the Commission.

I do not mind the manager of the bill spicing up the oratory about how much he loves freedom and how much he loves children, and all the rest of it. Of course, the rest of us do, too. Just tell me about Mr. Lloyd Davis. I want the manager of the bill to tell the Senate how a man could make \$85,000 a year from an agency at which he has not worked for more than 10 years.

Mr. Davis is not the only King Commission employee who appears to have

taken permanent leave from his regular Federal Government job. Another official, for example—and I could go on a long time talking about these various employees—is a fellow named Ed Horne, who coordinates the King Commission activities with the law enforcement agencies. Mr. Horne is an employee of the FBI—at least he is listed as an employee of the FBI. But as far as I can tell, based on the record, he has not worked for the FBI in at least 4 years, and probably longer than that.

I cannot imagine that the FBI has so little to do that it can reasonably afford to send one of its agents, or more than one of its agents, on permanent "loan" to anybody, including the Martin Luther King Holiday Commission. The pattern is the same in several respects involving several King Commission staffers. Once they go on "loan" to the King Commission, they are reborn; they stay there. I think, as a matter of policy, the Senate ought to take some step regarding that.

Madam President, I guess in a week's time I meet with 200 or more people, just one after another, and I am glad to see them all. But a surprising percentage of the people who come to me concerned about their country, or concerned about their Government, ask me, "How did we get into this \$4.5 trillion debt situation?" The total is actually more than \$4.5 trillion, but in round numbers, it is about \$4.5 trillion of debt which has been run up by the Congress of the United States.

I hear political statements on this floor that it is "Reagan's debt or 'Bush's debt.'" Let me tell you one thing. Unless they changed the Constitution when I was not looking, no money, not one thin dime, could be spent for any reason that has not first been authorized and appropriated by the Congress of the United States. So that "dead cat" lying at our door is our cat; it is not Reagan's, or Carter's, or Bush's, or Clinton's. The Congress of the United States is responsible for that \$4.5 trillion debt piled on the backs of young people, like the pages sitting on either side of the dais.

It is time to say what Senators have been saying every time this matter has come up: "Well, this is the last time; there will not be any funding after this." SAM NUNN said it, BOB DOLE said it, and Terry Sanford said it. I guess we will hear that today. But it has not been the last time yet, and I hope it will be one of these days.

I reserve the remainder of my time, and I yield the floor.

Mr. WOFFORD. How much time is there, Madam President?

The PRESIDING OFFICER. The Senator from Pennsylvania has 60 minutes available on this amendment.

Mr. WOFFORD. Madam President, that is on the new amendment?

The PRESIDING OFFICER. Yes, that is correct.

Mr. WOFFORD. How much time is there on the two amendments that were laid aside?

The PRESIDING OFFICER. The proponents have 47 minutes remaining.

On the ones laid aside, on the second-degree amendment, the Senator from Pennsylvania controls 12 minutes and the Senator from North Carolina controls 19 minutes.

On the first-degree amendment, the Senator from Pennsylvania controls 39 minutes and the Senator from North Carolina controls 7 minutes.

Mr. WOFFORD. Madam President, before responding to the latest facts and/or reports from the Senator from North Carolina, let me give just a little background now on the history of this Commission, which other Senators may not be as familiar with as I am.

When it was created in 1984, the King Commission established a 501(c)(3) nonprofit corporation, able to solicit funds in the private sector. It was competing against already established organizations, such as the Martin Luther King Center for Nonviolent Social Change in Atlanta—the Center. Then, in the inaugural observance of the national holiday, there was a great deal of excitement and anticipation as to what this holiday might be and what could be done with special funds.

Senator DOLE, then the majority leader of the U.S. Senate, and Edward Jefferson, president of the DuPont Co., helped to raise private funds for the observance of that first King Federal holiday on January 20, 1986. The aim was to raise at least \$2 million. The net result was that \$300,000 was raised under favorable conditions, the most favorable conditions the Commission has experienced, because it was the beginning of the holiday, the birth of the holiday. The enthusiasm and interest in the first King holiday observance carried over. But in recent years it has declined, and from 1990, it has never exceeded \$100,000 a year. The lowest level of contributions came in 1993 when the Commission raised \$34,000.

The arguments that the senior Senator from Illinois, the junior Senator from Illinois, the Senator from California, and I have made as to the timing of this reauthorization and the needs of our Nation for this work to be continued are all, it seems to me, very compelling in the light of the financial history as to whether that worked for a national holiday—the first such national holiday honoring a private citizen, as the Senator from North Carolina has stressed. But the real question is whether this is the time to cut out or cut back and to cripple our very modest Federal effort, and it seems to me that the argument for that, knowing the facts of life in our country, is so hard to make.

At this point, I want to note that we have a Labor Day in this country; we have a Veterans Day in this country;

and we recently celebrated the 500th anniversary of Columbus discovering America. I think we would find, if we did research on that, that very substantial resources by the Labor Department in connection with Labor Day, and the Veterans Administration for Veterans Day, and by the Christopher Columbus Commission, is attributed to and focused on making those big and successful holidays. The distinguished Senator from North Carolina himself supported a Bicentennial Commission and its funding.

This is a new and noble venture indeed. The Congress of the United States decided to make it so. This is a time to continue it and to give it a renewed mandate that is more practical, more important, and more pertinent, while building on their previous successes.

Madam President, I yield the floor.

Mr. WOFFORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The time will be equally divided on the two sides on the pending amendment.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Madam President, I believe this amendment has been checked with all sides. I ask that the pending amendment and the other two—all three of the amendments—be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1741

(Purpose: To stop the use of taxpayers' funds by the Commission to pay for first-class air travel or hotel accommodations)

Mr. HELMS. Madam President, I send an amendment to the desk and ask for it to be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1741.

Mr. HELMS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 10, strike "and".

On page 3, line 12, strike the period and insert "; and".

On page 3, between lines 12 and 13 insert the following:

(7) by adding at the end the following new section:

"SEC. 10. None of the funds appropriated or donated to the Commission may be used for the purpose of purchasing first class air travel or first class hotel accommodations."

Mr. HELMS. Madam President, this amendment is short, it is simple and it

is one that the Senate should easily support. This amendment precludes any official of the King Commission from using first class airline flights or first class hotel accommodations with Federal funds.

We have just had a lengthy debate in the Senate over what gifts and perks are proper for Senators to accept. No public official can ethically enjoy such luxuries as first class accommodations on the public tab. This amendment ensures that staff and directors of commissions—all commissions—abide by the same rules, the public expects all public officials to abide by.

No individual has a right to live in the lap of luxury at the taxpayers expense.

I believe this amendment will be accepted.

Mr. WOFFORD. We accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1741) was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WOFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Madam President, I believe it would be in order to have a short quorum call. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the time will be tolled on both sides. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1740, AS MODIFIED

Mr. HELMS. Madam President, this has been discussed with the distinguished manager of the bill and our respective staffs.

I ask unanimous consent that the Helms amendment affecting Federal employees on loan to the King Commission be modified so as to make certain and to allow them 1 year to complete their duties with the King Commission.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. WOFFORD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I send the modification to the desk.

The PRESIDING OFFICER. The modification will be incorporated into the amendment.

The amendment, with its modification, is as follows:

On page 2, strike lines 20 through 24 and insert the following:

(3) in section 6—

(A) in subsection (a) by striking "maximum rate of pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "rate of pay for level IV of the Executive Schedule under section 5315"; and

(B) in subsection (b)(1) by adding the following at the end: "A person who has been detailed under the preceding sentence for as many as 365 days (continuously or intermittently) may not subsequently be detailed to the Commission."

(C) All federal employees on loan to the King Commission on the day of enactment of this Act may remain detailed to the Martin Luther King Holiday Commission for not more than 365 days."

Mr. HELMS. Again, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1742 AND 1743, EN BLOC

Mr. HELMS. Madam President, I have two amendments prepared by the distinguished Senator from Colorado [Mr. BROWN]. They have been checked and cleared on both sides.

I ask unanimous consent that they be approved en bloc, and the motion to reconsider en bloc and the tabling of the motion to reconsider en bloc.

Mr. WOFFORD. Madam President, we have consulted with Senator BROWN and his staff, and we think these are improving amendments. We accept them.

The PRESIDING OFFICER. Without objection, the request is granted.

The amendments were agreed to as follows:

AMENDMENT NO. 1742

(Purpose: To improve the Commission's accounting procedures)

Mr. HELMS offered amendment No. 1742 for Mr. BROWN.

The amendment is as follows:

On page 3, between lines 12 and 13, insert the following:

(7) by adding at the end the following:

"SEC. 10. ACCOUNTING PROCEDURES.

"The Commission shall follow a comprehensive basis of accounting, as defined by the Comptroller General in B-255473. The Commission shall establish an accounting system for review by the Comptroller General under section 3512 of title 31, United States Code. The Comptroller General is authorized to review and audit the Commission, its programs, activities, operations, and financial transactions. The Comptroller General, and his agents, shall have access to all records, files, documents, and papers of the Commission, as necessary, to accomplish such audits."

Mr. BROWN. Madam President, the King Commission may receive its own appropriations directly, it may receive private donations, and it may receive grants from a government corporation which has its own appropriations. The Commission is responsible for imple-

menting the policies and organizing the activities. The Commission is responsible for raising and dispensing other funds. This organization understandably can get confusing.

As I understand it, the Commission found the bookkeeping to be complex enough to ask Arthur Anderson to conduct an audit of the corporation. The Commission, however, is not regularly audited. While Federal agencies are required to follow generally accepted accounting procedures, the Commission is not technically a Federal agency. As a consequence, the Commission can follow any or no accounting standards. To date, I believe they have followed good accounting standards. However, the Commission should be required to follow the same rules as other Federal commissions and agencies.

This amendment would do just that: require the Commission to follow generally accepted accounting standards.

This amendment would also authorize the GAO to conduct a review and audit of the programs and accounting of the Commission. This simply would enable GAO to take a look at the accounting as it may do for other Federal agencies.

Madam President, this amendment does not burden this Commission with unusual demands. Instead, it simply requires that the Commission lives under the same accounting rules of any other Federal body.

AMENDMENT NO. 1743

(Purpose: To modify the Commission report requirements)

Mr. HELMS offered amendment No. 1743 for Mr. BROWN.

The amendment is as follows:

On page 3, strike lines 8 through 10 and insert the following:

(5) by amending section 8 to read as follows:

"SEC. 8. COMMISSION REPORT.

"(a) IN GENERAL.—Not later than April 20 of each year, the Commission shall submit a report to the President and the Congress concerning its activities under this Act or under the National and Community Service Act of 1990.

"(b) ANALYSIS REQUIRED.—The Commission shall include in its annual report—

"(1) a detailed description of all activities undertaken by the Commission;

"(2) an analysis of the spending practices of the Commission indicating how much of the funds of the Commission are dedicated to salaries, travel expenses, and other overhead costs and how much are dedicated to the stated goals of the Commission; and

"(3) a detailed description of any grants made by the Corporation for National and Community Service with the consultation of the Commission."

Mr. BROWN. Madam President, I offer this amendment simply to make sure Congress is informed about the Commission it creates. This amendment would require the Commission to report to Congress and the President about the activities and programs the Commission undertakes.

The Commission is currently required to submit an annual report to

the President and the Congress. There is no direction in the law concerning the contents of this report. This amendment would direct the Commission to include a few things in the report that are important.

First, the Commission would be required to provide a detailed description of all its activities.

Second, the Commission would be required to explain the spending practices of the Commission with an eye toward how much is spent on overhead and how much is spent on reaching the goals of the Commission. This is similar to the service available for any charity which provides potential donors with information concerning how much is spent on overhead and how much reaches the desired goal.

Third, the Commission would be required to detail how much money the Commission receives from the corporation under the National and Community Service Act of 1990. The corporation receives its own appropriations and is authorized under this bill to make grants to the Commission. I think it is important for Congress, the President and taxpayers to know how much money is dedicated to this Government program from all areas, not just the direct appropriation. It would be helpful to know not only how much money is appropriated to the Commission and but also how much of the funds appropriated to the corporation actually ends up with the Commission.

VOTE ON AMENDMENT 1739

Mr. HELMS. Madam President, as I understand it, the distinguished manager of the bill is willing to accept the second-degree Helms amendment.

Mr. WOFFORD. That is correct.

Mr. HELMS. Do you want to put that to a vote, Madam President?

The PRESIDING OFFICER. The Senator has requested a vote on the second-degree amendment No. 1739.

Mr. HELMS. Right. I urge its approval.

The PRESIDING OFFICER. I have been advised that the yeas and nays will have to be vitiated.

Mr. HELMS. That is correct. I ask unanimous consent that the yeas and nays on this amendment alone be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment.

The amendment (No. 1739) was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WOFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Madam President, that leaves only the Helms underlying amendment, and the yeas and nays have been ordered on that amendment as well; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. And we have agreed there will be no attempt to second degree that amendment. We will have a rollcall vote on that tomorrow. Does the distinguished manager of the bill remember what time that vote will be scheduled?

This amendment will be on the question of deleting Federal funding for the King Commission, followed by a vote on limiting the amount of time—Madam President, I need to check with the Parliamentarian. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I understand that agreement has been reached on amendment No. 1740. I inquire of the Chair, is that correct?

Mr. WOFFORD. That is the amendment on limiting the detail?

Mr. HELMS. That is correct.

Mr. WOFFORD. That is correct.

Mr. HELMS. I just suggest that the Chair put that to a vote. I urge its approval.

Mr. WOFFORD. I move to vitiate—

Mr. DURENBERGER. Madam President, I rise in support of the Martin Luther King Holiday and Service Act of 1994.

This legislation will reauthorize the Dr. Martin Luther King, Jr., Holiday Commission for 5 years. In addition, it will authorize the Corporation for National and Community Service to make grants for community service opportunities in conjunction with the holiday.

We can all be proud of what the Commission has accomplished since it was created in 1984. Today all 50 States observe the King holiday. But much more than being about 1 day of observance, the Commission sponsors activities throughout the year that carry on Dr. King's labor for peace and reconciliation.

With very limited resources, the Commission has promoted education for our kids about alternatives to violence and crime. The Commission has enlisted 4 million young Americans to sign a pledge of commitment to non-violence and has involved over 27,000 young people in Youth Against Violence symposiums.

It is an appropriate extension of the Commission's mission to promote community service projects surrounding the holiday that reflect Dr. King's life and legacy. As America struggles to recapture the hearts and minds of our young people, the Commission can send an important message: There is power in nonviolence, and strength in service.

I can think of no more fitting tribute to Dr. King.

Mr. LIEBERMAN. Mr. President, I am pleased to be a cosponsor of S. 774, the King Holiday and Service Act of 1994. This act would support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr. I can think of no more appropriate tribute to Dr. King than to inspire more voluntary work to rebuild our communities.

The late Dr. King has properly been regarded as a national treasure—inspiring understanding among racial and ethnic groups, nonviolent conflict resolution, equal opportunities, and social justice. He has inspired the pursuit of racial and ethnic equality not only in America, but also around the world.

The Commission to assist in the observance of the Federal legal holiday honoring Martin Luther King, Jr., established on August 27, 1984, was created to ensure the annual recognition of Dr. King's incredible work. Because of this commission's success, a Federal legal holiday has been created to honor Dr. King. The Commission's initial goal has been reached. However, now is the time to move even further.

We must not only recognize Dr. King's dream, but also honor it by encouraging others to follow his example. It would seem inappropriate to only create a holiday to celebrate the life of a man of action. Instead, we should utilize Dr. King's accomplishments to inspire action, to give knowledge, and to form bonds among our many communities. This is the true spirit of Dr. King.

The cost of the Commission is modest, particularly when one views this as what it is—an investment in our future. Through this investment in service, we would multiply the kind of voluntary action Dr. King has already inspired. Through this investment in peace, we would save in the cost of violence, not only monetarily, but also in human suffering. Never before has it been more important for our young people to hear Dr. King's words. Therefore, I urge my colleagues to support the King Holiday and Service Act of 1994 so that we may continue the honored legacy of Dr. King.

The PRESIDING OFFICER. Without objection, the yeas and nays are vitiated. All time is yielded back, and the question is on agreeing to the amendment.

So the amendment (No. 1740), as modified, was agreed to.

Mr. HELMS. It won by two to nothing.

I move to reconsider the vote by which the amendment was agreed to.

Mr. WOFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Now, if the Chair will tell us what the procedure will be tomorrow afternoon at 2:30, I would appreciate that.

The PRESIDING OFFICER. The pending question is amendment 1738, as amended. That is a first-degree amendment, as amended.

Mr. HELMS. The yeas and nays have been ordered on that amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered. It is my understanding the vote will occur at about 2:30 tomorrow.

Mr. HELMS. Just for the record, to be clear, that amendment is on the funding question relating to the King Commission?

The PRESIDING OFFICER. That is correct.

Mr. WOFFORD. And the yeas and nays, have they been requested on—

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. WOFFORD. Final passage?

The PRESIDING OFFICER. The yeas and nays have not been requested on final passage.

Mr. WOFFORD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Now, on my part, I yield back all remaining time allocated to me this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. There still will be 10 minutes tomorrow prior to the vote; is that correct?

Mr. WOFFORD. The proposal, I understood, was to be 15 minutes to be shared by the Senator, and the Senator from Illinois, and myself.

Mr. HELMS. All time has been yielded back, and I ask to make sure that we are through here this afternoon?

Mr. WOFFORD. That is correct.

The PRESIDING OFFICER. The Senator from North Carolina has yielded back time. The Senator from Pennsylvania has not yet done so.

Mr. WOFFORD. If the Presiding Officer agrees to yielding back of time, all remaining time will be yielded back.

The PRESIDING OFFICER. The managers have that prerogative.

Without objection, time is yielded back on both sides of the debate.

Mr. HELMS. Madam President, let me thank the Chair and all others who have participated in this debate, particularly my friend from Pennsylvania. He is a gentleman, and I enjoy working with him.

Mr. WOFFORD. I enjoyed working with the Senator from North Carolina.

Mr. HELMS. I thank the Senator very much.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. BOXER). The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE U.S. SUPREME COURT'S DECISION ON THE BASE CLOSURE AND REALIGNMENT ACT OF 1990

Mr. SPECTER. Madam President, I have sought recognition to comment on a decision handed down this morning by the Supreme Court of the United States providing an interpretation of the Base Closure and Realignment Act of 1990.

In making these comments, I do so as both a U.S. Senator, and with the special interest of being a Senator from the Commonwealth of Pennsylvania in commenting about the decision which affects the Philadelphia Navy Yard.

I state at the outset that the State interest I have as a Senator from Pennsylvania and the interest that I have exhibited in defending the Philadelphia Navy Yard through the base closing procedures and in initiating a lawsuit in the U.S. District Court for the Eastern District of Pennsylvania, which went through the Court of Appeals of the Third Circuit on two occasions, where that distinguished court decided that the case was subject to judicial review, and then an appeal was taken, or certiorari was granted by the Supreme Court of the United States. That Court has now said there is no judicial review under the Base Closure Act. So I have a special interest, in a sense, as a Senator from Pennsylvania, but I speak from my broader responsibilities as a U.S. Senator, in terms of what is good for the Nation and what is appropriate and fair for the Nation.

In deciding that there was no judicial review—that is, no review by the Federal courts for action taken by the Base Closing Commission—the Supreme Court has slammed the door on a factual situation where there is documentary evidence that there was fraud perpetrated by the Department of the Navy, and the evidence is present in documents and reports signed by two admirals of the U.S. Navy, Admiral Claman and Admiral Hekman, that the navy yard in Philadelphia should remain open.

The Navy made a conscious decision to keep those reports from the Congress and from the Base Closing Commission. There is no doubt that in doing so the Navy violated the express requirements of the Base Closing Act that all materials had to be made available to the General Accounting Office, which is an arm of Congress.

There is no doubt that the Department of the Navy violated the requirements of law that there be a hearing, because there could not be a meaningful hearing, if that kind of relevant evidence was concealed and kept from the public, from Members of Congress, the House and Senate, and kept from the Base Closing Commission. And the Supreme Court of the United States has handed down this decision today in a hypertechnical interpretation of the Administrative Procedure Act, involving an interpretation of Presidential action, making a surprising distinction between the President's authority under the Constitution and the President's authority to interpret a statute, or to act under a statute.

Madam President, I believe that it is beyond any doubt that when the Congress of the United States established the base closing procedure and put in the introductory paragraph regarding Congress' determination to establish a fair procedure, the Congress did not contemplate that any base would be closed in America with the Navy concealing critical evidence.

There is no doubt that the Navy did conceal critical evidence based upon the facts of the case and documentary evidence. This is not a whisper on a street corner, and this is not hearsay; these are Navy reports signed by ranking admirals, Admiral Claman and Admiral Hekman, that the navy yard should be kept open.

To preclude the courts of the United States from reopening and redressing the claims of citizens to see to it that there is fairness is really beyond the pale of what has been the tradition of judicial review in this country. When someone enters the Supreme Court of the United States, the first insignia emblazoned on the wall is the authority of the Court, under judicial review on *Marbury versus Madison*, a case handed down in 1803 which establishes protection for basic rights and freedoms for citizens of this country, that the acts of the President and the Congress and acts of the administrative agencies will be reviewed by the courts, which are the protectors of those freedoms.

The Supreme Court of the United States, with five of the Justices speaking, said that the Administrative Procedure Act does not permit review because there was not final agency action. What does that mean? The Court says that the Administrative Procedure Act only allows judicial review if the agency is the last one to act. In this case, the agency is the Base Closing Commission. But the Court says that because the President had the responsibility either to approve or disapprove of the entire list, it is not final agency action and, therefore, there is no review by the Federal courts.

This decision was based on *Franklin versus Massachusetts*, a case handed

down in 1992 where the Secretary of Commerce, Barbara Franklin, had issued a certification as to how many U.S. House Members the Commonwealth of Massachusetts was entitled to. That was a 5-to-4 decision, *Franklin versus Massachusetts*, with four dissenters in that case, saying that there should be review by the courts of administrative actions, without a hypertechnical distinction as to what the President does or does not do within a limited range of discretion after an administrative agency has acted.

I suggest, Madam President, that the time has come for the Congress to review the provisions of the Administrative Procedure Act when the Supreme Court of the United States hands down a series of decisions which are very hard to understand, virtually inexplicable, on a 5-to-4 reading. If I take *Franklin versus Massachusetts*, it is very difficult to see where the line goes and what the line is.

The right of judicial review, to be able to go to the courts after the bureaucracy has acted, is a very fundamental right in our society. This right ought not to be precluded under some whimsical interpretation that is very hard to discern, which results in the exclusion of citizens who have grievances as a result of administrative action from having them reviewed by the courts.

May I emphasize, Madam President, that this is not a decision as to whether the navy yard should be kept open or closed, but only whether the courts of the United States ought to have the authority and power to review that decision by an agency, the Base Closing Commission, where there is documentary evidence of fraud by the Department of the Navy, because the Navy concealed reports from two admirals who said the yard should be kept open.

Further, under the pleadings which are accepted as true for the purposes of the legal procedure, the Navy instructed Admiral Clayman not to appear before the Base Closing Commission.

Five Justices of the Supreme Court, as I say, decided the case that the Administrative Procedure Act did not allow review, and went on to say in part 2 of the Supreme Court's opinion, joined in by the other four Justices so that it was a unanimous opinion, although disagreement with four of the Justices on the underlying reasons where in part 2 of the majority opinion the Court says that the President's action in acting under the statute is not subject to judicial review, and the Court makes a distinction between where the President exceeds his authority under the Constitution, on the one hand, and claims that he acted in violation of the statute, on the other hand, as set forth on that page 12 of the slip opinion.

Madam President, if the President of the United States does not have the au-

thority to act under a statute, that ought to render whatever he does null and void, just as the Supreme Court concedes that if the President does not have the authority to act under the Constitution of the United States where his authority is claimed to rest under the Constitution, then it is conceded that the Presidential action is not legal and is not binding.

At page 14 of the slip opinion the Supreme Court of the United States says:

The President's authority to act is not contingent on the Secretary's and Commission's fulfillment of all the procedural requirements imposed upon them by the 1990 act.

And the Court goes on to say a little later:

Indeed, nothing in section 2903(e) prevents the President from approving or disapproving the recommendations for whatever reason he sees fit.

In the concurring opinion, the same thought is expressed in this way as the Court explains, the act:

*** grants the President unfettered discretion to accept the Commission's base-closing report or to reject it, for a good reason, a bad reason, or no reason.

I submit, Madam President, that that judicial interpretation is far from a reasonable statement as to what the Congress intended, where the Congress has set down what it concludes is a fair process and requires that all information be turned over to the General Accounting Office and to the Congress. That is, all the cards have to be put face up so that we all know what the facts are and can have a hearing on the facts to present arguments one way or another. In this case, the conclusive evidence supported by undisputed documents—two admirals said the yard should be kept open—that that does not authorize the President of the United States to act for a bad reason or for no reason at all, and that it has realistically reviewed the intent of the Congress that if these requirements are not met then there ought to be judicial review to see if the entire process was legal.

Before this matter was acted upon by the full Congress, by the Senate and by the House, there was a hearing before the Armed Services Committee. The subcommittee chairman was the distinguished former Senator from Illinois, Senator Dixon. When I raised these considerations with Senator Dixon, he said those matters have to be reviewed by the courts, because Senator Dixon felt that the Subcommittee on Armed Services was not equipped, competent, or could not take the time to get into a consideration of what is essentially a judicial question.

We did not ask the courts to pass upon whether there was a force structure decision by the Department of Defense which was subject to judicial review, nor we did not ask the courts to decide any question which bore upon

military expertise. Those are matters for the Department of Defense and are clearly outside of the scope of judicial review.

But where you have an issue as to whether the procedural requirements were met; that is, were all the facts set forth, and was there a hearing, those are circumstances which are peculiarly subject to judicial review, and that was not held in this case.

Madam President, the Congress has the authority to modify the Administrative Procedure Act, and consideration should be given by the Congress to doing just that where you have these fuzzy 5-to-4 decisions which go all over the lot. But if you try to trace a clear-cut line on decisions by the courts on the Administrative Procedure Act, it is a maze that is not subject to any clear-cut interpretation. There has been a generalized statement of a presumption in favor of judicial review, but regrettably that is not followed in many, many cases, as evidenced by *Franklin v. Massachusetts* which I discussed a few moments ago, or by the Navy Yard case which was handed down today.

When the Court takes the totality of the act and comes to a conclusion that there was not congressional intent to have judicial review, then it points up a factor that in the Congress we must be more alert to making an express statement as to the availability of judicial review and not relying upon the well-established presumption by which the Court concedes that judicial review is ordinarily presumed. But where you have a tortured decision which seeks, realistically viewed, to protect the base-closing law and excludes the presentation of evidence of fraud and concealment, it seems to me that the court just goes much too far.

There have been some 310 proceedings, Madam President, for base closure and realignments. Only a very few of them have gone to court. And among the few which have gone to court, none presents facts like the Philadelphia Navy Yard, where there is documentary evidence of fraud and deceit.

I have taken these few minutes, Madam President, to review this case which was handed down today. I shall be giving it further study with a view as to what action I think should be appropriate, and further study in conferring with my colleagues on the matter as to what action the Congress should take on amending the Administrative Procedure Act to see to it that the courts are open, what further action we should take with respect to the base-closure law, making sure that a claim of outright fraud supported by conclusive documentary evidence is not shunted aside by the courts.

For the Congress to act to be sure that the precepts of *Marbury v. Madison*, which is a fundamental distinction of the United States of Amer-

ica from every other country on Earth, and that is judicial review, and where the majority opinion says that the courts exercise judicial review as much by declining to exercise it as by exercising it, is a conclusion which leaves me in great doubt. And that the hallmark of democratic society and the protection of individual rights ought not to be to abandon judicial review and to countenance a court which is going to say there is as much judicial review where the Supreme Court declines to exercise it, as there is where the Court does exercise judicial review.

The questions in this case, Madam President, go far beyond the Philadelphia Navy Yard. They go far beyond the special interests of the Commonwealth of Pennsylvania, and they go far beyond what I have undertaken in this case captioned *John Dalton versus Arlen Specter* to mean, because if this case stands without any additional review or action by the Congress, then the ambit of judicial review for what the bureaucracy does is tightened even further. And we all know that the bureaucracy in Government ought to be subject to restraints by the court.

If anyone can read our Base Closure Act as sanctioning this kind of fraud by the Department of the Navy, then it is time that the Congress made a modification, which we have the full power to do.

As I say, I will be consulting with my colleagues to draw some idea as to what may be deemed appropriate. But I think this is a very, very, very important decision touching on basic liberties and freedoms and the sanctity of judicial review. So I have seen fit to call it to the attention of my colleagues today.

Madam President, I ask unanimous consent that the full text of the majority opinion and the two concurring opinions be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Supreme Court of the United States]
DALTON, SECRETARY OF THE NAVY, ET AL. V.
SPECTER ET AL.
CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE THIRD CIRCUIT
[No. 93-289. Argued March 2, 1994—Decided
May 23, 1994]

Respondents filed this action under the Administrative Procedure Act (APA) and the Defense Base Closure and Realignment Act of 1990 (1990 Act), seeking to enjoin the Secretary of Defense (Secretary) from carrying out the President's decision, pursuant to the 1990 Act, to close the Philadelphia Naval Shipyard. The District Court dismissed the complaint on the alternative grounds that the 1990 Act itself precluded judicial review and that the political question doctrine foreclosed judicial intervention. In affirming in part and reversing in part, the Court of Appeals held that judicial review of the closure decision was available to ensure that the Secretary and the Defense Base Closure and Realignment Commission (Commission), as

participants in the selection process, had complied with the procedural mandates specified by Congress. The court also ruled that this Court's recent decision in *Franklin v. Massachusetts*, 505 U.S. —, did not affect the reviewability of respondents' procedural claims because adjudging the President's actions for compliance with the 1990 Act was a form of constitutional review sanctioned by *Franklin*.

Held: Judicial review is not available for respondents' claims. Pp. 6-15.

(a) A straightforward application of *Franklin* demonstrates that respondents' claims are not reviewable under the APA. The actions of the Secretary and the Commission are not reviewable "final agency action" within the meaning of the APA, since their reports recommending base closings carry no direct consequences. See 505 U.S., at —. Rather, the action that "will directly affect" bases, *id.*, at —, is taken by the President when he submits his certificate of approval of the recommendations to Congress. That the President cannot pick and choose among bases, and must accept or reject the Commission's closure package in its entirety, is immaterial; it is nonetheless the President, not the Commission, who takes the final action that affects the military installations. See *id.*, at —. The President's own actions, in turn, are not reviewable under the APA because he is not an "agency" under that Act. See *id.*, at —, Pp. 6-9.

(b) The Court of Appeals erred in ruling that the President's base closure decisions are reviewable for constitutionality. Every action by the President, or by another elected official, in excess of his statutory authority is not *ipso facto* in violation of the Constitution, as the Court of Appeals seemed to believe. On the contrary, this Court's decisions have often distinguished between claims of constitutional violations and claims that an official has acted in excess of his statutory authority. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 691, n. 11; *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585, 587, distinguished. Such decisions demonstrate that the claim at issue here—that the President violated the 1990 Act's terms by accepting flawed recommendations—is not a "constitutional" claim subject to judicial review under the exception recognized in *Franklin*, but is simply a statutory claim. The 1990 Act does not limit the President's discretion in approving or disapproving the Commission's recommendations, require him to determine whether the Secretary or Commission committed procedural violations in making recommendations, prohibit him from approving recommendations that are procedurally flawed, or, indeed, prevent him from approving or disapproving recommendations for whatever reason he sees fit. Where, as here, a statute commits decisionmaking to the President's discretion, judicial review of his decision is not available. See, e.g., *Chicago & Southern Air Lines, Inc. v. Waterman S.S. Corp.*, 333 U.S. 103, 113-114, Pp. 9-14.

(c) Contrary to respondents' contention, failure to allow judicial review here does not result in the virtual repudiation of *Marbury v. Madison*, 1 Cranch 137, and nearly two centuries of constitutional adjudication. The judicial power conferred by Article III is upheld just as surely by withholding judicial relief where Congress has permissibly foreclosed it, as it is by granting such relief where authorized by the Constitution or by statute. P. 15.

995 F. 2d 404, reversed.
Rehnquist, C.J., delivered the opinion of the Court, in which O'Connor, Scalia, Ken-

nedy, and Thomas, JJ., joined, and in Part II of which Blackmun, Stevens, Souter, and Ginsburg, JJ., also joined. Blackmun, J., filed an opinion concurring in part and concurring in the judgment. Souter, J., filed an opinion concurring in part and concurring in the judgment, in which Blackmun, Stevens, and Ginsburg, JJ., joined.

[Supreme Court of the United States]

JOHN H. DALTON, SECRETARY OF THE NAVY, ET AL., PETITIONERS V. ARLEN SPECTER ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

[No. 93-289, May 23, 1994]

CHIEF JUSTICE REHNQUIST delivered the opinion of the Court.

Respondents sought to enjoin the Secretary of Defense (Secretary) from carrying out a decision by the President to close the Philadelphia Naval Shipyard.¹ This decision was made pursuant to the Defense Base Closure and Realignment Act of 1990 (1990 Act), 104 Stat. 1808, as amended, note following 10 U.S.C. § 2687 (1988 ed., Supp. IV). The Court of Appeals held that judicial review of the decision was available to ensure that various participants in the selection process had complied with procedural mandates specified by Congress. We hold that such review is not available.

The Decision to close the shipyard was the end result of an elaborate selection process prescribed by the 1990 Act. Designed "to provide a fair process that will result in the timely closure and realignment of military installations inside the United States," § 2901(b),² the Act provides for three successive rounds of base closings—in 1991, 1993, and 1995, respectively, § 2903(c)(1). For each round, the Secretary must prepare closure and realignment recommendations, based on selection criteria he establishes after notice and an opportunity for public comment. § 2903(b) and (c).

The Secretary submits his recommendations to Congress and to the Defense Base Closure and Realignment Commission (Commission), an independent body whose eight members are appointed by the President, with the advice and consent of the Senate. §§ 2903(c)(1); 2902(a) and (c)(1)(A). The Commission must then hold public hearings and prepare a report, containing both an assessment of the Secretary's recommendations and the Commission's own recommendations for base closures and realignments. §§ 2903(d)(1) and (2). Within roughly three months of receiving the Secretary's recommendations, the Commission has to submit its report to the President. § 2903(d)(2)(A).

Within two weeks of receiving the Commission's report the President must decide whether to approve or disapprove, in their entirety, the Commission's recommendations. § 2903(e)(1)-(3). If the President disapproves, the Commission has roughly one month to prepare a new report and submit it to the President. § 2903(e)(3). If the President again disapproves, no bases may be closed that year under the Act. § 2903(e)(5). If the President approves the initial or revised recommendations, the President must submit the recommendations, along with his certification of approval, to Congress. §§ 2903(e)(2) and (e)(4). Congress may, within 45 days of receiving the President's certification (or by the date Congress adjourns for the session, whichever is earlier), enact a joint resolution of disapproval. §§ 2904(b); 2908. If such a reso-

lution is passed, the Secretary may not carry out any closures pursuant to the Act; if such a resolution is not passed, the Secretary must close all military installations recommended for closure by the Commission. §§ 2904(a) and (b)(1).

In April 1991, the Secretary recommended the closure or realignment of a number of military installations, including the Philadelphia Naval Shipyard. After holding public hearings in Washington, D.C., and Philadelphia, the Commission recommended closure of realignment of 82 bases. The Commission did not concur in all of the Secretary's recommendations, but it agreed that the Philadelphia Naval Shipyard should be closed. In July 1991, President Bush approved the Commission's recommendations, and the House of Representatives rejected a proposed joint resolution of disapproval by a vote of 364 to 60.

Two days before the President submitted his certification of approval of Congress, respondents filed this action under the Administrative Procedure Act (APA), 5 U.S.C. § 701 et seq., and the 1990 Act. Their complaint contained three counts, two of which remain at issue.³ Count I alleged that the Secretaries of Navy and Defense violated substantive and procedural requirements of the 1990 Act in recommending closure of the Philadelphia Naval Shipyard. Count II made similar allegations regarding the Commission's recommendations to the President, asserting specifically that, *inter alia*, the Commission used improper criteria, failed to place certain information in the record until after the close of public hearings, and held closed meetings with the Navy.

The United States District Court for the Eastern District of Pennsylvania dismissed the complaint in its entirety, on the alternative grounds that the 1990 Act itself precluded judicial review and that the political question doctrine foreclosed judicial intervention. *Specter v. Garrett*, 777 F. Supp. 1226 (1991). A divided panel of the United States Court of Appeals for the Third Circuit affirmed in part and reversed in part. *Specter v. Garrett*, 971 F.2d 936 (1992) (*Specter I*). The Court of Appeals first acknowledged that the actions challenged by respondents were not typical of the "agency actions" reviewed under the APA, because the 1991 Act contemplates joint decisionmaking among the Secretary, Commission, President, and Congress. *Id.*, at 944-945. The Court of Appeals then reasoned that because respondents sought to enjoin the implementation of the President's decision, respondents (who had not named the President as a defendant) were asking the Court of Appeals "to review a presidential decision." *Id.*, at 945. The Court of Appeals decided that there could be judicial review of the President's decision because the "actions of the President have never been considered immune from judicial review solely because they were taken by the President." *Ibid.* It held that certain procedural claims, such as respondents' claim that the Secretary failed to transmit to the Commission all of the information he used in making his recommendations, and their claim that the Commission did not hold public hearings as required by the Act, were thus reviewable. *Id.*, at 952-953. The dissenting judge took the view that the 1990 Act precluded judicial review of all statutory claims, procedural and substantive. *Id.*, at 956-961.

Shortly after the Court of Appeals issued its opinion, we decided *Franklin v. Massachusetts*, 505 U.S.—(1992), in which we addressed the existence of "final agency action" in a

suit seeking APA review of the decennial reapportionment of the House of Representatives. The Census Act requires the Secretary of Commerce to submit a census report to the President who then certifies to Congress the number of Representatives to which each State is entitled pursuant to a statutory formula. We concluded both that the Secretary's report was not "final agency action" reviewable under the APA, and that the APA does not apply to the President. *Id.*, at—(slip op., at 6-12). After we rendered our decision in *Franklin*, petitioners sought our review in this case. Because of the similarities between *Franklin* and this case, we granted the petition for certiorari, vacated the judgment of the Court of Appeals, and remanded for further consideration in light of *Franklin*. 506 U.S.—(1992).

One remand, the same divided panel of the Court of Appeals adhered to its earlier decision, and held that *Franklin* did not affect the reviewability of respondents' procedural claims. *Specter v. Barrett*, 995 F.2d 404 (1993) (*Specter II*). Although apparently recognizing that APA review was unavailable, the Court of Appeals felt that adjudging the President's actions for compliance with the 1990 Act was a "form of constitutional review," and that *Franklin* sanctioned such review. *Id.*, at 408-409. Petitioners again sought our review, and we granted certiorari. 510 U.S.—(1993). We now reverse.

I

We begin our analysis on common ground with the Court of Appeals. In *Specter II*, that court acknowledged, at least tacitly, that respondents' claims are not reviewable under the APA. 995 F.2d, at 406. A straightforward application of *Franklin* to this case demonstrates why this is so. *Franklin* involved a suit against the President, the Secretary of Commerce, and various public officials, challenging the manner in which seats in the House of Representatives had been apportioned among the States. 505 U.S., at—(slip op., at 1). The plaintiffs challenged the method used by the Secretary of Commerce in preparing her census report, particularly the manner in which she counted federal employees working overseas. The plaintiffs raised claims under both the APA and the Constitution. In reviewing the former, we first sought to determine whether the Secretary's action, in submitting a census report to the President, was "final" for purposes of APA review. (The APA provides for judicial review only of "final agency action." 5 U.S.C. § 704 (emphasis added)). Because the President reviewed (and could revise) the Secretary's report, made the apportionment calculations, and submitted the final apportionment report to Congress, we held that the Secretary's report was "not final and therefore not subject to review." 505 U.S., at—(slip op., at 9).

We next held that the President's actions were not reviewable under the APA, because the President is not an "agency" within the meaning of the APA. *Id.*, at—(slip op., at 11-12) ("As the APA does not expressly allow review of the President's actions, we must presume that his actions are not subject to its requirements"). We thus concluded that the reapportionment determination was not reviewable under the standards of the APA. *Id.*, at—(slip op., at 11-12). In reaching our conclusion we noted that the "President's actions may still be reviewed for constitutionality." *Ibid.* (citing *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), and *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935)).

In this case, respondents brought suit under the APA, alleging that the Secretary

¹ Footnotes at end of article.

and the Commission did not follow the procedural mandates of the 1990 Act. But here, as in *Franklin*, prerequisite to review under the APA—"final agency action"—is lacking. The reports submitted by the Secretary of Defense and the Commission, like the report of the Secretary of Commerce in *Franklin*, "carry[y] no direct consequences" for base closing. *Id.*, at—(slip op., at 9). The action that "will directly affect" the military bases *id.*, at—(slip op., at 7), is taken by the President, when he submits his certification of approval to Congress. Accordingly, the Secretary's and Commission's reports serve "more like a tentative recommendation that a final and binding determination." *Id.*, at—(slip op., at 9). The reports are, "like the ruling of a subordinate official, not final and therefore not subject to review." *Ibid.* (international quotation marks and citation omitted). The actions of the President, in turn, are not reviewable under the APA because, as we concluded in *Franklin*, the President is not an "agency." See *id.*, at—(slip op., at 11-12).

Respondents contend that the 1990 Act differs significantly from the Census Act at issue in *Franklin*, and that our decision in *Franklin* therefore does not control the question whether the Commission's actions here are final. Respondents appear to argue that the President, under the 1990 Act, has little authority regarding the closure of bases. See Brief for Respondents 29 (pointing out that the 1990 Act does not allow "the President to ignore, revise or amend the Commission's list of closures. He is only permitted to accept or reject the Commission's closure package in its entirety"). Consequently, respondents continue, the Commission's report must be regarded as final. This argument ignores the *ratio decidendi* of *Franklin*. See 505 U.S., at—(slip op., at 11-12).

First, respondents underestimate the President's authority under the Act, and the importance of his role in the base closure process. Without the President's approval, no bases are closed under the Act, see §2903(e)(5); the Act, in turn, does not by its terms circumscribe the President's discretion to approve or disapprove the Commission's report. Cf. *Franklin*, 505 U.S., at—(slip op., at 10). Second, and more fundamentally, respondents' argument ignores "[t]he core question" for determining finality: "whether the agency has completed its decisionmaking process, and whether the result of that process is one that will directly affect the parties." *Id.*, at—(slip op., at 7). That the President cannot pick and choose among bases, and must accept or reject the entire package offered by the Commission, is immaterial. What is crucial is the fact that "[t]he President, not the [Commission], takes the final action that affects" the military installations. *Id.*, at—(slip op., at 10). Accordingly, we hold that the decisions made pursuant to the 1990 Act are not reviewable under the APA. Accord, *Cohen v. Rice*, 992 F.2d 376 (CA1 1993).

Although respondents apparently sought review exclusively under the APA,⁴ the Court of Appeals nevertheless sought to determine whether non-APA review, based on either common law or constitutional principles, was available. It focused, moreover, on whether the President's actions under the 1990 Act were reviewable, even though respondents did not name the President as a defendant. The Court of Appeals reasoned that because respondents sought to enjoin the implementation of the President's decision, the legality of that decision would determine whether an injunction should issue.

See *Specter II*, 995 F.2d, at 407; *Specter I*, 971 F.2d, at 936. In this rather curious fashion, the case was transmuted into one concerning the reviewability of presidential decisions.

II

Seizing upon our statement in *Franklin* that presidential decisions are reviewable for constitutionality, the Court of Appeals asserted that "there is a constitutional aspect to the exercise of judicial review in this case—an aspect grounded in the separation of powers doctrine." *Specter II*, 995 F.2d, at 408. It reasoned, relying primarily on *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), that whenever the President acts in excess of his statutory authority, he also violates the constitutional separation of powers doctrine. Thus, judicial review must be available to determine whether the President has statutory authority "for whatever action" he takes. 995 F.2d, at 409. In terms of this case, the Court of Appeals concluded that the President's statutory authority to close and realign bases would be lacking if the Secretary and Commission violated the procedural requirements of the Act in formulating their recommendations. *Ibid.*

Accepting for purposes of decision here the propriety of examining the President's actions, we nonetheless believe that the Court of Appeals' analysis is flawed. Our cases do not support the proposition that every action by the President, or by another executive official, in excess of his statutory authority is *ipso facto* in violation of the Constitution. On the contrary, we have often distinguished between claims of constitutional violations and claims that an official has acted in excess of his statutory authority. See, e.g., *Wheeldin v. Wheeler*, 373 U.S. 647, 650-652 (1963) (distinguishing between "rights which may arise under the Fourth Amendment" and "a cause of action for abuse of the [statutory] subpoena power by a federal officer"); *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388, 396-397 (1971) (distinguishing between "actions contrary to [a] constitutional prohibition," and those "merely said to be in excess of the authority delegated * * * by the Congress").

In *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 691, n. 11 (1949), for example, we held that sovereign immunity would not shield an executive officer from suit if the officer acted either "unconstitutionally or beyond his statutory powers." (Emphasis added). If all executive actions in excess of statutory authority were *ipso facto* unconstitutional, as the Court of Appeals seemed to believe, there would have been little need in *Larson* for our specifying unconstitutional and ultra vires conduct as separate categories. See also *Dugan v. Rank*, 372 U.S. 609, 621-622 (1963); *Harmon v. Brucker*, 355 U.S. 579, 581 (1958) ("In keeping with our duty to avoid deciding constitutional questions presented unless essential to proper disposition of a case, we look first to petitioners' non-constitutional claim that respondent [Secretary of the Army] acted in excess of powers granted him by Congress" (emphasis added)).

Our decision in *Youngstown*, *supra*, does not suggest a different conclusion. In *Youngstown*, the Government disclaimed any statutory authority for the President's seizure of steel mills. See 343 U.S., at 585 ("[W]e do not understand the Government to rely on statutory authorization for this seizure"). The only basis of authority asserted was the President's inherent constitutional power as the Executive and the Commander-in-Chief of the Armed Forces. *Id.*, at 587. Because no statutory authority was claimed, the case necessarily turned on whether the Constitu-

tion authorized the President's actions. *Youngstown* thus involved the conceded absence of any statutory authority, not a claim that the President acted in excess of such authority. The case cannot be read for the proposition that an action taken by the President in excess of his statutory authority necessarily violates the Constitution.⁵

The decisions cited above establish that claims simply alleging that the President has exceeded his statutory authority are not "constitutional" claims, subject to judicial review under the exception recognized in *Franklin*.⁶ As this case demonstrates, if every claim alleging that the President exceeded his statutory authority were considered a constitutional claim, the exception identified in *Franklin* would be broadened beyond recognition. The distinction between claims that an official exceeded his statutory authority, on the one hand, and claims that he acted in violation of the Constitution on the other, is too well established to permit this sort of evisceration.

So the claim raised here is a statutory one: The President is said to have violated the terms of the 1990 Act by accepting procedurally flawed recommendations. The exception identified in *Franklin* for review of constitutional claims thus does not apply in this case. We may assume for the sake of argument that some claims that the President has violated a statutory mandate are judicially reviewable outside the framework of the APA. See *Dames & Moore v. Regan*, 453 U.S. 654, 667 (1981). But longstanding authority holds that such review is not available when the statute in question commits the decision to the discretion of the President.

As we stated in *Dakota Central Telephone Co. v. South Dakota ex rel. Payne*, 250 U.S. 163, 184 (1919), where a claim

"concerns not a want of [presidential] power, but a mere excess or abuse of discretion in exerting a power given, it is clear that it involves considerations which are beyond the reach of judicial power. This must be since, as this court has often pointed out, the judicial may not invade the legislative or executive departments so as to correct alleged mistakes or wrongs arising from asserted abuse of discretion."

In a case analogous to the present one, *Chicago & Southern Air Lines, Inc. v. Waterman S. S. Corp.*, 333 U.S. 103 (1948), an airline denied a certificate from the Civil Aeronautics Board to establish an international air route sought judicial review of the denial. Although the Civil Aeronautics Act, 49 U.S.C. §646 (1946 ed.), generally allowed for judicial review of the Board's decisions, and did not explicitly exclude judicial review of decisions involving international routes of domestic airlines, we nonetheless held that review was unavailable. 333 U.S., at 114.

In reasoning pertinent to this case, we first held that the Board's certification was not reviewable because it was not final until approved by the President. See *id.*, at 112-114 ("orders of the Board as to certificates for overseas or foreign air transportation are not mature and are therefore not susceptible of judicial review at any time before they are finalized by Presidential approval"). We then concluded that the President's decision to approve or disapprove the orders was not reviewable, because "the final orders embody Presidential discretion as to political matters beyond the competence of the courts to adjudicate." See *id.*, at 114. We fully recognized that the consequence of our decision was to foreclose judicial review:

"The dilemma faced by those who demand judicial review of the Board's order is that

before Presidential approval it is not a final determination * * * and after Presidential approval the whole order, both in what is approved without change as well as in amendments which he directs, derives its vitality from the exercise of *unreviewable Presidential discretion*." *Id.*, at 113 (Emphasis added).

Although the President's discretion in *Waterman S.S. Corp.* derived from the Constitution, we do not believe the result should be any different when the President's discretion derives from a valid statute. See *Dakota Central Telephone Co.*, *supra*, at 184; *United States v. George S. Bush & Co.*, 310 U.S. 371, 380 (1940).

The 1990 Act does not at all limit the President's discretion in approving or disapproving the Commission's recommendations. See §2903(e); see also *Specter II*, 995 F.2d, at 413 (Alito, J., dissenting). The Third Circuit seemed to believe that the President's authority to close bases depended on the Secretary's and Commission's compliance with statutory procedures. This view of the statute, however, incorrectly conflates the duties of the Secretary and Commission with the authority of the President. The President's authority to act is not contingent on the Secretary's and Commission's fulfillment of all the procedural requirements imposed upon them by the 1990 Act. Nothing in §2903(e) requires the President to determine whether the Secretary or Commission committed any procedural violations in making their recommendations, nor does §2903(e) prohibit the President from approving recommendations that are procedurally flawed. Indeed, nothing in §2903(e) prevents the President from approving or disapproving the recommendations for whatever reason he sees fit. See §2903(e); *Specter II*, 995 F.2d, at 413 (Alito, J., dissenting).

How the President chooses to exercise the discretion Congress has granted him is not a matter for our review. See *Waterman S.S. Corp.*, *supra*; *Dakota Central Telephone Co.*, *supra*, at 184. As we stated in *George S. Bush & Co.*, *supra*, at 380, "[n]o question of law is raised when the exercise of [the President's] discretion is challenged."

III

In sum, we hold that the actions of the Secretary and the Commission cannot be reviewed under the APA because they are not "final agency actions." The actions of the President cannot be reviewed under the APA because the President is not an "agency" under that Act. The claim that the President exceeded his authority under the 1990 Act is not a constitutional claim, but a statutory one. Where a statute, such as the 1990 Act, commits decisionmaking to the discretion of the President, judicial review of the President's decision is not available.

Respondents tell us that failure to allow judicial review here would virtually repudiate *Marbury v. Madison*, 1 Cranch 137 (1803), and nearly two centuries of constitutional adjudication. But our conclusion that judicial review is not available for respondents' claim follows from our interpretation of an Act of Congress, by which we and all federal courts are bound. The judicial power of the United States conferred by Article III of the Constitution is upheld just as surely by withholding judicial relief where Congress has permissibly foreclosed it, as it is by granting such relief where authorized by the Constitution or by statute.

The judgment of the Court of Appeals is *Reversed*.

[Supreme Court of the United States]

JOHN H. DALTON, SECRETARY OF THE NAVY, ET AL., PETITIONERS V. ARLEN SPECTER ET AL.
ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
[No. 93-289, May 23, 1994]

Justice Blackmun, concurring in part and concurring in the judgment.

I did not join the majority opinion in *Franklin v. Massachusetts*, 505 U.S.—(1992), and would not extend that unfortunate holding to the facts of this case. I nevertheless agree that the Defense Base Closure and Realignment Act of 1990 "preclud[es] judicial review of a base-closing decision," *post*, at 7, and accordingly join Justice Souter's opinion.

I write separately to underscore what I understand to be the limited reach of today's decision. Each of the majority and concurring opinions concludes that the President acts within his unreviewable discretion in accepting or rejecting a recommended base-closing list, and that an aggrieved party may not enjoin closure of a duly selected base as a result of alleged error in the decision-making process. This conclusion, however, does not foreclose judicial review of a claim, for example, that the President added a base to the Commission's list in contravention of his statutory authority. Nor does either opinion suggest that judicial review would be unavailable for a timely claim seeking direct relief from a procedural violation, such as a suit claiming that a scheduled meeting of the Commission should be public, see §2903(d), note following 10 U.S.C. §2687 (1988 ed., Supp. IV), or that the Secretary of Defense should publish the proposed selection criteria and provide an opportunity for public comment, §§2903(b) and (c). Such a suit could be timely brought and adjudicated without interfering with Congress' intent to preclude judicial "cherry picking" or frustrating the statute's expedited decision-making schedule. See *post*, at 4. I also do not understand the majority's *Franklin* analysis to foreclose such a suit, since a decision to close the Commission's hearing, for example, would "directly affect" the rights of interested parties independent of any ultimate presidential review. See *ante*, at 8; cf. *ITT World Communications, Inc. v. FCC*, 466 U.S. 463 (1984).

With the understanding that neither a challenge to ultra vires exercise of the President's statutory authority nor a timely procedural challenge is precluded, I join Justice Souter's concurrence and Part II of the opinion of the Court.

[Supreme Court of the United States]

JOHN H. DALTON, SECRETARY OF THE NAVY, ET AL., PETITIONERS V. ARLEN SPECTER ET AL.
ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
[No. 93-289, May 23, 1994]

Justice Souter, with whom Justice Blackmun, Justice Stevens, and Justice Ginsburg join, concurring in part and concurring in the judgment.

I join Part II of the Court's opinion because I think it is clear that the President acted wholly within the discretion afforded him by the Defense Base Closure and Realignment Act of 1990 (Act), and because respondents pleaded no constitutional claim against the President, indeed, no claim against the President at all. As the Court explains, the Act grants the President unfettered discretion to accept the Commission's base-closing report or to reject it, for a good

reason, a bad reason, or no reason. See *ante*, at 14.

It is not necessary to reach the question the Court answers in Part I, whether the Commission's report is final agency action, because the text, structure, and purpose of the Act compel the conclusion that judicial review of the Commission's or the Secretary's compliance with it is precluded. There is, to be sure, a "strong presumption that Congress did not mean to prohibit all judicial review." *Bowen v. Michigan Academy of Family Physicians*, 476 U.S. 667, 672 (1986) (internal quotation marks and citation omitted). But although no one feature of the Act, taken alone, is enough to overcome that strong presumption, I believe that the combination present in this unusual legislative scheme suffices.

In adopting the Act, Congress was intimately familiar with repeated, unsuccessful, efforts to close military bases in a rational and timely manner. See generally, Defense Base Closure and Realignment Commission, Report to the President 1991.⁷ That history of frustration is reflected in the Act's text and intricate structure, which plainly express congressional intent that action on a base-closing package be quick and final, or no action be taken at all.

At the heart of the distinctive statutory regime, Congress placed a series of tight and rigid deadlines on administrative review and Presidential action, embodied in provisions for three biennial rounds of base closings, in 1991, 1993, and 1995 (the "base-closing years"), §§2903(b) and (c), note following 10 U.S.C. §2687 (1988 ed., Supp. IV), with unbending deadlines prescribed for each round. The Secretary is obliged to forward base-closing recommendations to the Commission, no later, respectively, than April 15, 1991, March 15, 1993, and March 15, 1995, §2903(c). The Comptroller General must submit a report to Congress and the Commission evaluating the Secretary's recommendations by April 15 of each base-closing year. §2903(d)(5). The Commission must then transmit a report to the President setting out its own recommendations by July 1 of each of those years. §2903(d)(2). And in each such year, the President must, no later than July 15, either approve or disapprove the Commission's recommendations. §2903(e)(1). If the President disapproves the Commission's report, the Commission must send the President a revised list of recommended base closings, no later than August 15. §2903(e)(3). In that event, the President will have until September 1 to approve the Commission's revised report; if the President fails to approve the report by that date, then no bases will be closed that year. §2903(e)(5). If, however, the President approves a Commission report within either of the times allowed, the report becomes effective unless Congress disapproves the President's decision by joint resolution (passed according to provisions for expedited and circumscribed internal procedures) within 45 days. §§2904(b)(1)(A), 2908.⁸

The Act requires that a decision about a base-closing package, once made, be implemented promptly. Once Congress has declined to disapprove the President's base closing decision, the Secretary of Defense "shall * * * close all military installations recommended for closure," §2904(a). The Secretary is given just two years after the President's transmittal to Congress to begin the complicated process of closing the listed bases and must complete each base-closing round within six years of the President's transmittal, see §§2904, 2905.

It is unlikely that Congress would have insisted on such a timetable for decision and

implementation if the base-closing package would be subject to litigation during the periods allowed, in which case steps toward closing would either have to be delayed in deference to the litigation, or the litigation might be rendered moot by completion of the closing process. That unlikelihood is underscored by the provision for disbanding the Commission at the end of each base-closing decision round, and for terminating it automatically at the end of 1995, whether or not any bases have been selected to be closed. If Congress intended judicial review of individual base-closing decisions, it would be odd indeed to disband biennially, and at the end of three rounds to terminate, the only entity authorized to provide further review and recommendations.

The point that judicial review was probably not intended emerges again upon considering the linchpin of this unusual statutory scheme, which is its all-or-nothing feature. The President and Congress must accept or reject the biennial base-closing recommendations as a single package. See §§ 2903(e)(2), (e)(3), (e)(4) (as to the President); §§ 2908(a)(2) and (d)(2) (as to Congress). Neither the President nor Congress may add a base to the list or "cherry pick" one from it. This mandate for prompt acceptance or rejection of the entire package of base closings can only represent a considered allocation of authority between the Executive and Legislative Branches to enable each to reach important, but politically difficult, objectives. Indeed, the wisdom and ultimate political acceptability of a decision to close any one base depends on the other closure decisions joined with it in a given package, and the decisions made in the second and third rounds just as surely depend (or will depend) on the particular content of the package or packages of closings that will have preceded them. If judicial review could eliminate one base from a package, the political resolution embodied in that package would be destroyed; if such review could eliminate an entire package, or leave its validity in doubt when a succeeding one had to be devised, the political resolution necessary to agree on the succeeding package would be rendered the more difficult, if not impossible. The very reasons that led Congress by this enactment to bind its hands from untying a package, once assembled, go far to persuade me that Congress did not mean the courts to have any such power through judicial review.

When combined with these strict time-tables for decision, the temporary nature of the Commission, the requirement for prompt implementation, and the all-or-nothing base-closing requirements at the core of the Act, two secondary features of the legislation tend to reinforce my conclusion that judicial review was not intended. First, the Act provides nonjudicial opportunities to assess any procedural (or other) irregularities. The Commission and the Comptroller General review the Secretary's recommendations, see §§ 2903(d)(5), 2903(d)(3), and each can determine whether the Secretary has provided adequate information for reviewing the soundness of his recommendations.⁹ The President may, of course, also take procedural irregularities into account in deciding whether to seek new recommendations from the Commission, or in deciding not to approve the Commission's recommendations altogether. And, ultimately, Congress may decide during its 45-day review period whether procedural failings call the presidentially approved recommendations so far into question as to justify their substantive rejection.¹⁰

Second, the Act does make express provision for judicial review, but only of objections under the National Environmental Policy Act of 1969 (NEPA), 83 Stat. 852, as amended, 42 U.S.C. § 4321 *et seq.*, to implementation plans for a base closing, and only after the process of selecting a package of bases for closure is complete. Because NEPA review during the base-closing decision process had stymied or delayed earlier efforts,¹¹ the Act, unlike prior legislation addressed to base closing, provides that NEPA has no application at all until after the President has submitted his decision to Congress and the process of selecting bases for closure has been completed. See § 2905(c)(1). NEPA then applies only to claims arising out of actual disposal or relocation of base property, not to the prior decision to choose one base or another for closing. § 2905(c)(2). The Act by its terms allows for "judicial review, with respect to any requirement of [NEPA]" made applicable to the Act by § 2905(c)(2), but requires the action to be initiated within 60 days of the Defense Department's act or omission as to the closing of a base. § 2905(c)(3). This express provision for judicial review of certain NEPA claims within a narrow time frame supports the conclusion that the Act precludes judicial review of other matters, not simply because the Act fails to provide expressly for such review, but because Congress surely would have prescribed similar time limits to preserve its considered schedules if review of other claims had been intended.

In sum, the text, structure, and purpose of the Act clearly manifest congressional intent to confine the base closing selection process within a narrow time frame before inevitable political opposition to an individual base closing could become overwhelming, to ensure that the decisions be implemented promptly, and to limit acceptance or rejection to a package of base closings as a whole, for the sake of political feasibility. While no one aspect of the Act, standing alone, would suffice to overcome the strong presumption in favor of judicial review, this structure (combined with the Act's provision for Executive and congressional review, and its requirement of time-constrained judicial review of implementation under NEPA) can be understood no other way than as precluding judicial review of a base-closing decision under the scheme that Congress, out of its doleful experience, chose to enact. I conclude accordingly that the Act forecloses such judicial review.

I thus join in Part II of the opinion of the Court, and in its judgment.

FOOTNOTES

¹ Respondents are shipyard employees and their unions; members of Congress from Pennsylvania and New Jersey, the States of Pennsylvania, New Jersey, and Delaware, and officials of those States; and the city of Philadelphia. Petitioners are the Secretary of Defense; the Secretary of the Navy; and the Defense Base Closure and Realignment Commission and its members.

² For ease of reference, all citations to the 1990 Act are to the relevant sections of the Act as it appears in note following 10 U.S.C. § 2687 (1988 ed., Supp. IV).

³ Respondents' third count alleged that petitioners had violated the due process rights of respondent shipyard employees and respondent unions. In its initial decision, the United States Court of Appeals for the Third Circuit held that the shipyard employees and unions had no protectible property interest in the shipyard's continued operation and thus had failed to state a claim under the Due Process Clause. *Specter v. Garrett*, 971 F. 2d 936, 955-956 (1992) (*Specter I*). Respondents did not seek further review of that ruling, and it is not at issue here.

⁴ See *Specter v. Garrett*, 995 F. 2d 404, 412 (1993) (*Specter II*) (Alito, J., dissenting); see also *Specter v. Garrett*, 777 F. Supp. 1226, 1227 (E.D. Pa. 1991) (respond-

ents "have asserted that their right to judicial review *** arises under the Administrative Procedure Act").

⁵ *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935), the other case (along with *Youngstown*) cited in *Franklin* as an example of when we have reviewed the constitutionality of the President's actions, likewise did not involve a claim that the President acted in excess of his statutory authority. *Panama Refining* involved the National Industrial Recovery Act, which delegated to the President the authority to ban interstate transportation of oil produced in violation of state production and marketing limits. See 293 U.S., at 406. We struck down an Executive Order promulgated under that Act not because the President had acted beyond his statutory authority, but rather because the Act unconstitutionally delegated Congress' authority to the President. See *id.*, at 430. As the Court pointed out, we were "not dealing with action which, appropriately belonging to the executive province, is not the subject of judicial review, or with the presumptions attaching to executive action. To repeat, we are concerned with the question of the delegation of legislative power." *Id.*, at 432 (footnote omitted). Respondents have not alleged that the 1990 Act in itself amounts to an unconstitutional delegation of authority to the President.

⁶ As one commentator has observed, in cases in which the President concedes, either implicitly or explicitly, that the only source of his authority is statutory, no "constitutional question whatever" is raised. J. Choper, *Judicial Review and the National Political Process* 316 (1980). Rather, "the cases concern only issues of statutory interpretation." *Ibid.*

⁷ See also, H.R. Conf. Rep. No. 101-923, p. 705 (1990) (Earlier base closures had "take[n] a considerable period of time and involve[d] numerous opportunities for challenges in court"; *id.*, at 707 (Act "would considerably enhance the ability of the Department of Defense *** promptly [to] implement proposals for base closures and realignment"); H.R. Rep. No. 101-665, p. 384 (1990) ("Expedited procedures *** are essential to make the base closure process work").

⁸ To enable Congress to perform this prompt review, the Act requires the Secretary, the Comptroller General, and the Commission to provide Congress with information, prior to the completion of Executive Branch review, see §§ 2903(a)(1), (b)(2), (c)(1), and (d)(3).

⁹ Petitioners represent, indeed, that as to the round in question, the Comptroller General reported to Congress on procedural irregularities (as well as substantive difference of opinion) and requested additional information from the Secretary (which was provided). See Reply Brief for Petitioners 16, n. 12.

¹⁰ In approving the base closings for 1991, Congress was apparently well aware of claims of procedural shortcomings, but nonetheless chose not to disapprove the list. See Department of Defense Appropriations Act, 1992, Pub. L. 102-172, § 8131, 105 Stat. 1208.

¹¹ See, e.g., H.R. Conf. Rep. No. 100-1071, p. 23 (1988). Mr. SPECTER. I thank the Chair.

I yield the floor. With the absence of any other Senator, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WOFFORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

KING HOLIDAY AND SERVICE ACT OF 1994

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. WOFFORD. Madam President, I ask unanimous consent that at 2:15 p.m., Tuesday, May 24, the Senate resume consideration of H.R. 1933, the Martin Luther King Holiday Commission authorization bill; that the time

until 2:30 p.m. be equally divided and controlled in the usual form; that, at 2:30 p.m., without intervening action, the Senate vote on or in relation to the Helms amendment numbered 1738, as amended, with no amendments in order thereto; and that upon disposition of Amendment No. 1738, and without intervening action, the Senate proceed to vote on final passage of H.R. 1933, the Martin Luther King Holiday Commission authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. WOFFORD. Madam President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WOFFORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO S. 687 ON JUNE 24, 1994

Mr. MITCHELL. Mr. President, I ask unanimous consent that no later than the close of business on Friday, June 24, the majority leader shall move to proceed to the consideration of Calendar No. 409, S. 687, the product liability fairness bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY ADMINISTRATIVE REFORM ACT OF 1994

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 433, H.R. 4277, the Social Security Administration Reform Act; that all after the enacting clause be stricken and the text of S. 1560, as passed the Senate, be inserted in lieu thereof; that the bill be advanced to third reading, passed, and the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees; further, that any statements relating thereto appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4277), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 4277) entitled "An Act to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the "Social Security Administration Independence Act of 1994".

(b) *AMENDMENT OF SOCIAL SECURITY ACT*.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) *TABLE OF CONTENTS*.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendment of Social Security Act; table of contents.

TITLE I—ESTABLISHMENT OF NEW INDEPENDENT AGENCY

Sec. 101. Establishment of Social Security Administration as a separate, independent agency.

Sec. 102. Commissioner and Deputy Commissioner of Social Security.

Sec. 103. Social Security Advisory Board.

Sec. 104. Personnel; budgetary matters; seal of office.

Sec. 105. Transfers to the new Social Security Administration.

Sec. 106. Transitional rules.

Sec. 107. Effective dates.

TITLE II—CONFORMING AMENDMENTS

Sec. 201. Amendments to titles II and XVI of the Social Security Act.

Sec. 202. Other amendments.

Sec. 203. Rules of construction.

Sec. 204. Effective dates.

TITLE III—SOCIAL SECURITY DISABILITY AND REHABILITATION

Sec. 301. Short title.

Sec. 302. Reform of monthly insurance benefits based on disability involving substance abuse.

Sec. 303. Priority of treatment.

Sec. 304. Establishment of referral monitoring agencies required in all States.

Sec. 305. Proceeds from certain criminal activities constitute substantial gainful employment.

Sec. 306. Consistent penalty provisions for SSDI and SSI programs.

TITLE I—ESTABLISHMENT OF NEW INDEPENDENT AGENCY

SEC. 101. ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS A SEPARATE, INDEPENDENT AGENCY.

Section 701 (42 U.S.C. 901) is amended to read as follows:

"SOCIAL SECURITY ADMINISTRATION

"SEC. 701. There is hereby established, as an independent agency in the executive branch of the Government, a Social Security Administration (hereafter in this title referred to as the 'Administration'). It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI."

SEC. 102. COMMISSIONER AND DEPUTY COMMISSIONER OF SOCIAL SECURITY.

Section 702 (42 U.S.C. 902) is amended to read as follows:

"COMMISSIONER AND DEPUTY COMMISSIONER

"Commissioner of Social Security

"SEC. 702. (a)(1) There shall be in the Administration a Commissioner of Social Security

(hereafter in this title referred to as the 'Commissioner') who shall be appointed by the President, with the advice and consent of the Senate.

"(2) The Commissioner shall be compensated at the rate provided for level I of the Executive Schedule.

"(3) The Commissioner shall be appointed for a term of 4 years coincident with the term of the President, or until the appointment of a qualified successor.

"(4) The Commissioner shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

"(5) The Commissioner may prescribe such rules and regulations as the Commissioner determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Commissioner shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

"(6) The Commissioner may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Commissioner considers necessary or appropriate, except that this paragraph shall not apply with respect to any unit, component, or provision provided for by this Act.

"(7) The Commissioner may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Commissioner may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Commissioner.

"(8) The Commissioner and the Secretary of Health and Human Services (hereafter in this title referred to as the 'Secretary') shall consult, on an ongoing basis, to ensure—

"(A) the coordination of the programs administered by the Commissioner, as described in section 701, with the programs administered by the Secretary under titles XVIII and XIX of this Act; and

"(B) that adequate information concerning benefits under such titles XVIII and XIX shall be available to the public.

"Deputy Commissioner of Social Security

"(b)(1) There shall be in the Administration a Deputy Commissioner of Social Security (hereafter in this title referred to as the 'Deputy Commissioner') who shall be appointed by the President, with the advice and consent of the Senate.

"(2) The Deputy Commissioner shall be appointed for a term of 4 years coincident with the term of the Commissioner, or until the appointment of a qualified successor.

"(3) The Deputy Commissioner shall be compensated at the rate provided for level II of the Executive Schedule.

"(4) The Deputy Commissioner shall perform such duties and exercise such powers as the Commissioner shall from time to time assign or delegate. The Deputy Commissioner shall be Acting Commissioner of the Administration during the absence or disability of the Commissioner and, unless the President designates another officer of the Government as Acting Commissioner, in the event of a vacancy in the office of the Commissioner."

SEC. 103. SOCIAL SECURITY ADVISORY BOARD.

Section 703 (42 U.S.C. 903) is amended to read as follows:

"SOCIAL SECURITY ADVISORY BOARD

"Establishment of Board

"SEC. 703. (a) There shall be established a Social Security Advisory Board (hereinafter referred to as the 'Board').

"Functions of the Board"

"(b) The Board shall advise the Commissioner on policies related to the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI. Specific functions of the Board shall include—

"(1) analyzing the Nation's retirement and disability systems and making recommendations with respect to how the old-age, survivors, and disability insurance program and the supplemental security income program, supported by other public and private systems, can most effectively assure economic security;

"(2) studying and making recommendations relating to the coordination of programs that provide health security with programs described in paragraph (1);

"(3) making recommendations to the President and to the Congress with respect to policies that will ensure the solvency of the old-age, survivors, and disability insurance program, both in the short-term and the long-term;

"(4) making recommendations to the President of candidates to consider in selecting nominees for the position of Commissioner and Deputy Commissioner;

"(5) reviewing and assessing the quality of service that the Administration provides to the public;

"(6) reviewing and making recommendations with respect to policies and regulations regarding the old-age, survivors, and disability insurance program and the supplemental security income program;

"(7) increasing public understanding of the social security system;

"(8) in consultation with the Commissioner, reviewing the development and implementation of a long-range research and program evaluation plan for the Administration;

"(9) reviewing and assessing any major studies of social security as may come to the attention of the Board; and

"(10) conducting such other reviews and assessments that the Board determines to be appropriate.

"Structure and Membership of the Board"

"(c) The Board shall be composed of 7 members who shall be appointed as follows:

"(1) 3 members shall be appointed by the President, with the advice and consent of the Senate. Not more than 2 of such members shall be from the same political party.

"(2) 2 members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Senate Committee on Finance.

"(3) 2 members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the House Committee on Ways and Means.

"Terms of Appointment"

"(d) Each member of the Board shall serve for a term of 6 years, except that—

"(1) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(2) the terms of service of the members initially appointed under this section shall expire as follows:

"(A) The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of—

- "(i) 2 years;
- "(ii) 4 years; and
- "(iii) 6 years.

"(B) The terms of service of members initially appointed by the President pro tempore of the

Senate shall expire as designated by the President pro tempore of the Senate at the time of nomination, 1 each at the end of—

- "(i) 4 years; and
- "(ii) 6 years.

"(C) The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of—

- "(i) 3 years; and
- "(ii) 5 years.

"Chairman"

"(e) A member of the Board shall be designated by the President to serve as Chairman for a term of 4 years, coincident with the term of the President, or until the designation of a successor.

"Compensation"

"(f) Members of the Board shall be compensated as follows:

"(1) Members shall be paid at a rate equal to 25 percent of the rate for level III of the Executive Schedule.

"(2) For days when the Board or any authorized subcommittee of the Board meets, members who attend meetings on such days (including travel time) shall receive additional compensation in an amount equal to the daily equivalent of the rate for level III of the Executive Schedule.

"(3) While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(4) Service on the Board shall not be treated as Federal service or employment for purposes of receiving any benefits under chapters 83, 84, and 87 of title 5, United States Code.

"(5) A member of the Board may elect coverage of a health benefits plan under chapter 89 of title 5, United States Code. Such a member electing coverage shall have the applicable employee contributions under section 8906 of such title withheld from pay for service as a member of the Board. The Administration shall pay the applicable Government contributions under such section 8906 for such member. The Office of Personnel Management shall promulgate regulations to apply the provisions of chapter 89 of such title to Board members electing coverage as provided under this paragraph.

"Meetings"

"(g) The Board shall meet not less than 6 times each year to consider a specific agenda of issues, as determined by the Chairman in consultation with the other members of the Board.

"Federal Advisory Committee Act"

"(h) The Board shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"Personnel"

"(i)(1) The Board shall, without regard to title 5, United States Code, appoint a Staff Director who shall be paid at a rate equivalent to a rate for the Senior Executive Service.

"(2) The Board is authorized, without regard to title 5, United States Code, to appoint and fix the compensation of such additional personnel as the Board determines to be necessary to carry out the functions of the Board.

"(3) In fixing the compensation of additional personnel under paragraph (2), the Board shall not authorize that any individual appointed under such paragraph be compensated at a rate that is greater than the rate of compensation of the Staff Director described in paragraph (1).

"Authorization of Appropriation"

"(j) There are authorized to be made available for expenditure, out of the Federal Disability

Insurance Trust Fund, the Federal Old Age and Survivors Insurance Trust Fund, and the general fund in the Treasury, such sums as the Congress may deem appropriate to carry out the purposes of this section."

SEC. 104. PERSONNEL; BUDGETARY MATTERS; SEAL OF OFFICE.

Section 704 is amended to read as follows:

"ADMINISTRATIVE DUTIES OF THE COMMISSIONER**"Personnel"**

"SEC. 704. (a)(1) The Commissioner shall appoint such additional officers and employees as the Commissioner considers necessary to carry out the functions of the Administration under this Act. Except as otherwise provided in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5, United States Code.

"(2) The Commissioner may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(3) Notwithstanding any requirements of section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is substantially greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of the Social Security Administration Independence Act of 1994 to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Commissioner under subsection (b)(1). The total number of such positions authorized for the Administration shall not at any time be less than the number of such authorized positions as of immediately before such date.

"Budgetary Matters"

"(b)(1) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Commissioner.

"(2) Appropriations for administrative expenses of the Administration are authorized to be provided on a biennial basis.

"(3) Funds appropriated for the Administration to be available on a contingency basis shall be apportioned upon the occurrence of the stipulated contingency, as determined by the Commissioner and reported to the Congress.

"Employment Restriction"

"(c) The number of positions in the Administration which may be excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of such positions, may not exceed at any time the equivalent of 10 full-time positions.

"Seal of Office"

"(d) The Commissioner shall cause a seal of office to be made for the Administration of such design as the Commissioner shall approve. Judicial notice shall be taken of such seal."

SEC. 105. TRANSFERS TO THE NEW SOCIAL SECURITY ADMINISTRATION.

(a) **FUNCTIONS.**—There are transferred to the Social Security Administration all functions carried out by the Secretary of Health and Human Services with respect to the programs and activities the administration of which is vested in the Social Security Administration by reason of this title and the amendments made thereby. The Commissioner of Social Security shall allocate such functions in accordance with sections 701, 702, 703, and 704 of the Social Security Act (as amended by this title).

(b) **PERSONNEL, ASSETS, ETC.**—(1) There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Commissioner of Social Security in the Social Security Administration—

(A) the personnel employed in connection with the functions transferred by this title and the amendments made thereby; and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(3) Any individual who is an employee of the Department and who was not employed on the date of the enactment of this title, in connection with functions transferred by this title to the Administration, but who was so employed on the day before the date established pursuant to section 107(a), may be transferred from the Department of Health and Human Services to the Social Security Administration by the Commissioner under subparagraph (A) of paragraph (1), after consultation with the Secretary of Health and Human Services, if the Commissioner determines such transfer to be appropriate.

(4) Any individual who is an employee of the Department and who was employed on the date of the enactment of this title, solely in connection with functions transferred by this title to the Administration, and who was so employed on the day before the date established pursuant to section 107(a), shall be transferred from the Department of Health and Human Services to the Social Security Administration.

(c) **ABOLISHMENT OF OFFICE OF COMMISSIONER IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**—Effective upon the appointment of a Commissioner of Social Security pursuant to section 702 of the Social Security Act (as amended by this title)—

(1) the position of Commissioner of Social Security in the Department of Health and Human Services is abolished; and

(2) section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Social Security, Department of Health and Human Services."

SEC. 106. TRANSITIONAL RULES.

(a) **TRANSITION DIRECTOR.**—(1) Within 30 days after the date of the enactment of this Act, a transition director shall be appointed by the President, who shall be selected on the basis of experience and knowledge of the operation of the Government.

(2) The transition director shall conduct activities necessary to ensure the transition of the Social Security Administration to the status of an independent agency in the executive branch of the Government. In conducting such activities before the appointment of the Commissioner of Social Security, the transition director shall consult regularly with the Director of the Office of Management and Budget. Upon such appointment, the transition director shall conduct such activities at the direction of the Commissioner of Social Security.

(3) The transition director shall be compensated at the rate provided for level IV of the Executive Schedule.

(4) Expenditures to carry out the purposes of this subsection shall be made out of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

(b) **INTERIM AUTHORITY FOR APPOINTMENT AND COMPENSATION.**—

(1) **APPOINTMENT OF COMMISSIONER.**—Within 60 days of the date of the enactment of this title, the Commissioner of Social Security shall be appointed by the President pursuant to section 702 of the Social Security Act (as amended by this title). If the appointment is made pursuant to such section before the date established pursuant to section 107(a), the Commissioner of Social Security shall also perform the duties assigned to the Commissioner of Social Security in the Department of Health and Human Services.

(2) **OTHER APPOINTMENTS.**—At any time on or after the date of the enactment of this title any of the other officers provided for in sections 702 and 703 of the Social Security Act (as amended by this title) may be nominated and appointed, as provided in such sections.

(3) **COMPENSATION.**—Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Commissioner of Social Security or the Social Security Administration by this title, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(c) **CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.**—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements (and ongoing negotiations relating to such collective bargaining agreements), recognitions of labor organizations, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or the Secretary's delegate), and (B) which relate to functions which, by reason of this title, the amendments made thereby, and regulations prescribed thereunder, are vested in the Commissioner of Social Security; and

(2) which are in effect immediately before the date established pursuant to section 107(a), shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Commissioner, except that any collective bargaining agreement shall remain in effect until the date of termination specified in such agreement.

(d) **CONTINUATION OF PROCEEDINGS.**—The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before the date established pursuant to section 107(a), with respect to functions vested (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) in the Commissioner of Social Security, except that such proceedings, to the extent that such proceedings relate to such functions, shall continue before such Commissioner. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Commissioner, by a court of competent jurisdiction, or by operation of law.

(e) **CONTINUATION OF SUITS.**—Except as provided in this subsection—

(1) the provisions of this title shall not affect suits commenced before the date established pursuant to section 107(a); and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in such officer's official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this title. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States and the Social Security Administration, or such official of such Administration as may be appropriate, and, in any litigation pending immediately before the date established pursuant to section 107(a), the court may at any time, on the court's own motion or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(f) **CONTINUATION OF PENALTIES.**—This title shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) is vested in the Commissioner of Social Security.

(g) **JUDICIAL REVIEW.**—Orders and actions of the Commissioner of Social Security in the exercise of functions vested in such Commissioner under this title (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before the date established pursuant to section 107(a). Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Commissioner shall continue to apply to the exercise of such function by such Commissioner.

(h) **EXERCISE OF FUNCTIONS.**—In the exercise of the functions vested in the Commissioner of Social Security under this title, the amendments made thereby, and regulations prescribed thereunder, such Commissioner shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Commissioner, and actions of such Commissioner shall have the same force and effect as when exercised by such Secretary.

(i) **REPORT.**—Within 120 days of the date of the enactment of this title, the transition director and the Commissioner of Social Security shall report to the Congress on the status of the transition to an independent Social Security Administration, and on any significant internal restructuring or management improvements that are proposed to be undertaken.

SEC. 107. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as provided in subsection (b), this title, and the amendments made by such title shall take effect on the earlier of—

(1) the date which is 180 days after the date of the enactment of this Act, or

(2) a date designated by the President.

(b) **TRANSITIONAL RULES.**—Section 106 shall take effect on the date of the enactment of this title.

TITLE II—CONFORMING AMENDMENTS

SEC. 201. AMENDMENTS TO TITLES II AND XVI OF THE SOCIAL SECURITY ACT.

(a) **IN GENERAL.**—Title II (42 U.S.C. 401 et seq.) (other than section 201, section 218(d), section 231(c), section 226, and section 226A) and title XVI (42 U.S.C. 1382 et seq.) (other than sections 1614(f)(2)(B) and 1616(e)(3)) are each amended—

(1) by striking, wherever it appears therein, "Secretary of Health and Human Services" and inserting "Commissioner of Social Security";

(2) by striking, wherever it appears therein, "Department of Health and Human Services" and inserting "Social Security Administration";

(3) by striking, wherever it appears therein, "Department" (but only if it is not immediately succeeded by the words "of Health and Human Services"), and only if it is used in reference to the Department of Health and Human Services) and inserting "Administration";

(4) by striking, wherever it appears therein, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services: "Secretary", "Secretary's", "his", "him", "he", "her", and "she", and inserting (in the case of the word "Secretary") "Commissioner of Social Security", (in the case of the word "Secretary's") "Commissioner's", (in the case of the word "his") "the Commissioner's", (in the case of the word "him") "the Commissioner", (in the case of the word "her") "the Commissioner" or "the Commissioner's", as may be appropriate, and (in the case of the words "she" or "he") "the Commissioner"; and

(5) by striking, wherever it appears therein, "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

(b) AMENDMENTS TO SECTION 201.—(1)(A) Sections 201(a)(3), 201(a)(4), 201(b)(1), and 201(b)(2) (42 U.S.C. 401(a)(3), 401(a)(4), 401(b)(1), and 401(b)(2), respectively) are each amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security"; and

(B) Sections 201(a)(3) and 201(b)(1) (42 U.S.C. 401(a)(3) and 401(b)(1), respectively) are each amended by striking "such Secretary" and inserting "such Commissioner".

(2) Section 201(c) (42 U.S.C. 401(c)) is amended—

(A) in the first sentence, by striking "shall be composed of" and all that follows down through "ex officio" and inserting the following: "shall be composed of the Commissioner of Social Security, the Secretary of the Treasury, and the Secretary of Health and Human Services, all ex officio"; and

(B) in the fifth sentence, by striking "The Commissioner of Social Security" and inserting "The Deputy Commissioner of Social Security".

(3) Section 201(g)(1)(A) (42 U.S.C. 401(g)(1)(A)) is amended—

(A) in clause (i), by striking "by him and the Secretary of Health and Human Services" and inserting "by him, the Commissioner of Social Security, and the Secretary of Health and Human Services", and by striking "by the Department of Health and Human Services and the Treasury Department" and inserting "by the Social Security Administration, the Department of Health and Human Services, and the Department of the Treasury";

(B) in clause (ii), by striking "method prescribed by the Board of Trustees under paragraph (4)" and inserting "applicable method prescribed under paragraph (4)", by striking "the Secretary of Health and Human Services" and inserting "the Commissioner of Social Security and the Secretary of Health and Human Services", and by striking "the Department of Health and Human Services" and inserting "the Social Security Administration and the Department of Health and Human Services"; and

(C) by striking the last sentence and inserting the following: "There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title and title XVI for which the Commissioner of Social Security is responsible, the costs of title XVIII for which the Secretary of Health and Human Services is responsible, and the costs of carrying out the functions of the Social Security Admin-

istration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 other than those referred to in clause (i) of the first sentence of this subparagraph."

(4) Section 201(g)(1) (42 U.S.C. 401(g)(1)) is further amended by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) After the close of each fiscal year—

"(i) the Commissioner of Social Security shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of this title and title XVI and of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Old-Age and Survivors Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Disability Insurance Trust Fund, and

"(ii) the Secretary of Health and Human Services shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of title XVIII which should have been borne by the general fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund, except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the applicable method prescribed under paragraph (4) of this subsection.

"(C) After the determinations under subparagraph (B) have been made for any fiscal year, the Commissioner of Social Security and the Secretary of Health and Human Services shall jointly certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to ensure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for (i) the part of the administration of this title and title XVI for which the Commissioner of Social Security is responsible, (ii) the part of the administration of this title and title XVIII for which the Secretary of Health and Human Services is responsible, and (iii) carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee shall transfer any such amounts in accordance with any certification so made."

(5) Section 201(g)(2) (42 U.S.C. 401(g)(2)) is amended, in the second sentence, by striking "established and maintained by the Secretary of Health and Human Services" and inserting "maintained by the Commissioner of Social Security", and by striking "Secretary shall furnish" and inserting "Commissioner of Social Security shall furnish".

(6) Section 201(g)(4) (42 U.S.C. 401(g)(4)) is amended to read as follows:

"(4) The Commissioner of Social Security shall utilize the method prescribed pursuant to this paragraph, as in effect immediately before the date of the enactment of the Social Security Administration Independence Act of 1994 for deter-

mining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds consider such action advisable, such Boards may modify the method of determining such costs."

(7) Section 201(i)(1) (42 U.S.C. 401(i)(1)) is amended to read as follows:

"(i)(1) The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund or to the Social Security Administration, the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds."

(8) Subsections (j) and (k) of section 201 (42 U.S.C. 401) are each amended by striking "Secretary" each place it appears and inserting "Commissioner of Social Security".

(9) Section 201(l)(3)(B)(iii)(II) (42 U.S.C. 401(l)(3)(B)(iii)(II)) is amended by striking "Secretary" and inserting "Commissioner of Social Security".

(10) Section 201(m)(3) (42 U.S.C. 401(m)(3)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(11) Section 201 (42 U.S.C. 401) is amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(c) AMENDMENTS TO SECTION 218.—Section 218(d) (42 U.S.C. 418(d)) is amended by striking "Secretary" each place it appears in paragraphs (3) and (7) and inserting "Commissioner of Social Security".

(d) AMENDMENT TO SECTION 231.—Section 231(c) (42 U.S.C. 431(c)) is amended by striking "Secretary determines" and inserting "Commissioner of Social Security and the Secretary jointly determine".

SEC. 202. OTHER AMENDMENTS.

(a) AMENDMENTS TO TITLE VII.—(1) Title VII (42 U.S.C. 901 et seq.) is amended by adding at the end the following new section:

"DUTIES AND AUTHORITY OF SECRETARY

"SEC. 712. The Secretary shall perform the duties imposed upon the Secretary by this Act. The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures as may be necessary for carrying out the functions of the Secretary under this Act."

(2) Section 706 (42 U.S.C. 907) is amended—

(A) in subsection (a), by striking "Advisory Council on Social Security" and all that follows through "disability insurance program and" and inserting "Advisory Council on Hospital and Supplementary Medical Insurance for the purpose of reviewing the status of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in relation to the long-term commitments of";

(B) in subsection (d), by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and

(C) by striking the section heading and inserting the following:

"ADVISORY COUNCIL ON HOSPITAL AND SUPPLEMENTARY MEDICAL INSURANCE".

(3) Paragraph (2) of section 709(b) (42 U.S.C. 910(b)) is amended by striking "(as estimated by the Secretary)" and inserting "(for amounts which will be paid from the Federal Old-Age

and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as estimated by the Commissioner, and for amounts which will be paid from the Federal Hospital Insurance Trust and the Federal Supplementary Medical Insurance Trust Fund, as estimated by the Secretary".

(4) Sections 709 and 710 (42 U.S.C. 910 and 911) are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(b) AMENDMENTS TO TITLE XI.—(1) Section 1101(a) (42 U.S.C. 1301(a)) is amended by adding at the end the following new paragraph:

"(10) The term 'Administration' means the Social Security Administration, except where the context requires otherwise."

(2) Section 1106(a) (42 U.S.C. 1306(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking "Department of Health and Human Services" each place it appears and inserting "applicable agency";

(C) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

(D) by adding at the end the following new paragraph:

"(2) For purposes of this subsection and subsection (b), the term 'applicable agency' means—

"(A) the Social Security Administration, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Administration, or

"(B) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department."

(3) Section 1106(b) (42 U.S.C. 1306(b)) is amended—

(A) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

(B) by striking "Department of Health and Human Services" and inserting "applicable agency".

(4) Section 1106(c) (42 U.S.C. 1306(c)) is amended—

(A) by striking "the Secretary" the first place it appears and inserting "the Commissioner of Social Security or the Secretary"; and

(B) by striking "the Secretary" each subsequent place it appears and inserting "such Commissioner or Secretary".

(5) Section 1107(b) (42 U.S.C. 1307(b)) is amended by striking "the Secretary of Health and Human Services" and inserting "the Commissioner of Social Security or the Secretary".

(6) Section 1110 (42 U.S.C. 1310) is amended—

(A) in subsection (a)(2), by inserting "(or the Commissioner, with respect to any jointly financed cooperative agreement or grant concerning titles II or XVI)" after "Secretary";

(B) in subsection (b)—

(i) by striking "Secretary" each place it appears and inserting "Commissioner"; and

(ii) by striking "the Secretary's" each place it appears and inserting "the Commissioner's"; and

(C) by striking "he", "his", "him", and "himself" each place they appear (except in subsection (b)(2)(A)) and inserting "the Commissioner", "the Commissioner's", "the Commissioner", and "himself or herself", respectively.

(7) Subsections (b) and (c) of section 1127 (42 U.S.C. 1320a-6) are each amended by striking "Secretary" and inserting "Commissioner of Social Security".

(8) Section 1128(f) (42 U.S.C. 1320a-7(f)) is amended by inserting after "section 205(g)" the following: " , except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the So-

cial Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(9) Section 1131 (42 U.S.C. 1320b-1) is amended—

(A) by striking "Secretary" each place it appears and inserting "Commissioner of Social Security";

(B) in subsection (a)(1)(A), by adding "or" at the end;

(C) in subsection (a)(1)(B), by striking "or" at the end;

(D) by striking subsection (a)(1)(C);

(E) by redesignating subsection (a)(2) as subsection (a)(3);

(F) by inserting after subsection (a)(1) the following new paragraph:

"(2) The Secretary makes a finding of fact and a decision as to the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or"; and

(G) by striking "he" in the matter in subsection (a) following paragraph (3) (as so redesignated) and inserting "the Commissioner of Social Security".

(10) Section 1155 (42 U.S.C. 1320c-4) is amended by striking "(to the same extent as is provided in section 205(b))" and all that follows and inserting "(to the same extent as beneficiaries under title II are entitled to a hearing by the Commissioner of Social Security under section 205(b)). For purposes of the preceding sentence, subsection (l) of section 205 shall apply, except that any reference in such subsection to the Commissioner of Social Security or the Social Security Administration shall be deemed a reference to the Secretary or the Department of Health and Human Services, respectively. Where the amount in controversy is \$2,000 or more, such beneficiary shall be entitled to judicial review of any final decision relating to a reconsideration described in this subsection."

(11) Sections 1101, 1106, 1107, and 1137 (42 U.S.C. 1301, 1306, 1307, and 1320b-7, respectively) are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(c) AMENDMENTS TO TITLE XVIII.—(1) Subsections (a) and (f) of section 1817 (42 U.S.C. 1395i) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(2) Section 1840(a) (42 U.S.C. 1395s(a)) is amended—

(A) in paragraph (1), by striking "Secretary" and inserting "Commissioner of Social Security"; and by adding at the end the following new sentence: "Such regulations shall be prescribed after consultation with the Secretary."; and

(B) in paragraph (2), by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(3) Section 1872 (42 U.S.C. 1395ii) is amended by inserting after "title II" the following: " , except that, in applying such provisions with respect to this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(4) Section 1869(b)(1) (42 U.S.C. 1395ff(b)(1)) and the last sentence of section 1876(c)(5)(B) (42 U.S.C. 1395mm(c)(5)(B)) are amended by inserting after "section 205(g)" the following: " , except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(5) Sections 1817, 1862, and 1886 (42 U.S.C. 1395i, 1395y, and 1395ww, respectively) are

amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(d) AMENDMENTS TO TITLE XIX.—(1) Section 1905(q)(2) (42 U.S.C. 1396d(q)(2)) is amended by striking "Secretary" and inserting "Commissioner of Social Security".

(2) Section 1910(b)(2) (42 U.S.C. 1396i(b)(2)) is amended, in the first sentence, by inserting after "section 205(g)" the following: " , except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(e) AMENDMENT TO TITLE XX.—Section 2002(a)(2)(B) (42 U.S.C. 1397a(a)(2)(B)) is amended by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

(f) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) by adding at the end of section 5311 the following new item:

"Commissioner, Social Security Administration."

(2) by adding at the end of section 5313 the following new item:

"Deputy Commissioner, Social Security Administration."; and

(3) by striking "Secretary of Health Education, and Welfare" each place it appears in section 8141 and inserting "Commissioner of Social Security".

(g) AMENDMENTS TO FOOD STAMP ACT OF 1977.—(1) Sections 6(c)(3) and 8(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(3) and 2017(e)(6)) are each amended by inserting "the Commissioner of Social Security and" before "the Secretary of Health and Human Services".

(2) Sections 6(g), 11(j), and 16(e) of such Act (7 U.S.C. 2015(g), 2020(j), and 2025(e)) are each amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(3) Section 11(i) of such Act (7 U.S.C. 2020(i)) is amended by adding " , the Commissioner of Social Security" after "the Secretary".

(h) AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 707(e)(3) of title 14, United States Code, is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(i) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—(1) Subsections (c)(1), (c)(2)(E), (g)(1), (g)(2)(A), and (g)(2)(B) of section 1402 of the Internal Revenue Code of 1986 (26 U.S.C. 1402) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(2) Section 3121(b)(10)(B) of such Code (26 U.S.C. 3121(b)(10)(B)) is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(3) Section 3127 of such Code (26 U.S.C. 3127) is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(4) Section 6050F(c)(1)(A) of such Code (26 U.S.C. 6050F(c)(1)(A)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(5) Subsections (d) and (f) of section 6057 of such Code (26 U.S.C. 6057) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(6) Section 6103(l)(5) of such Code (26 U.S.C. 6103(l)(5)) is amended—

(A) by striking "Department of Health and Human Services" and inserting "Social Security Administration"; and

(B) by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(7) Subsections (d)(3)(C) and (e) of section 6402 of such Code (26 U.S.C. 6402) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(8) Section 6511(d)(5) of such Code (26 U.S.C. 6511(d)(5)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(j) AMENDMENTS TO TITLE 31, UNITED STATES CODE.—Section 3720A(f) of title 31, United States Code, is amended by striking "Secretary of Health and Human Services" each place it appears in and inserting "Commissioner of Social Security".

(k) AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Section 5105 of title 38, United States Code, is amended—

(1) by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security"; and

(2) by striking the second sentence of subsection (b) and inserting the following new sentence: "A copy of each such application filed with either the Secretary or the Commissioner, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary or the Commissioner with such application, and which may be needed by the other official in connection therewith, shall be transmitted by the Secretary or the Commissioner receiving the application to the other official.".

(l) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 9(a)(1), by striking "and" at the end of subparagraph (U), and by adding at the end the following new subparagraph:

"(V) of the Social Security Administration, the functions of the Inspector General of the Department of Health and Human Services relating to the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and of the supplemental security income program under title XVI of such Act; and";

(2) in section 11(1), by striking "or" after "Commission" and inserting a semicolon, and by inserting after "Board," the following: "or the Commissioner of Social Security"; and

(3) in section 11(2), by striking "or" after "Information Agency," and by inserting after "Veterans' Administration" the following: "or the Social Security Administration";.

SEC. 203. RULES OF CONSTRUCTION.

(a) REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, record, or document to the Department of Health and Human Services with respect to such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the Social Security Administration.

(b) REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the Commissioner of Social Security.

(c) REFERENCES TO OTHER OFFICERS AND EMPLOYEES.—Whenever any reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.

SEC. 204. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this title shall take effect on the date established pursuant to section 107(a).

(b) EXCEPTIONS.—Subsections (f)(1), (f)(2), and (l) of section 202 shall take effect on the date of the enactment of this title.

TITLE III—SOCIAL SECURITY DISABILITY AND REHABILITATION

SEC. 301. SHORT TITLE.

This title may be cited as the "Social Security Disability and Rehabilitation Act of 1994".

SEC. 302. REFORM OF MONTHLY INSURANCE BENEFITS BASED ON DISABILITY INVOLVING SUBSTANCE ABUSE.

(a) SOCIAL SECURITY DISABILITY INSURANCE.—(1) IN GENERAL.—Section 223 of the Social Security Act (42 U.S.C. 423) is amended by adding at the end the following new subsection:

"Limitation on Payment of Benefits by Reason of Substance Abuse

"(j)(1)(A) Notwithstanding any other provision of this title, no individual whose disability is based in whole or in part on a medical determination that the individual is a drug addict or alcoholic shall be entitled to benefits under this title based on such disability with respect to any month, unless such individual—

"(i) is undergoing, or on a waiting list for, any medical or psychological treatment that may be appropriate for such individual's condition as a drug addict or alcoholic (as the case may be) and for the stage of such individual's rehabilitation at an institution or facility approved for purposes of this paragraph by the Secretary (so long as access to such treatment is reasonably available, as determined by the Secretary), and

"(ii) demonstrates in such manner as the Secretary requires, including at a continuing disability review not later than one year after such determination, that such individual is complying with the terms, conditions, and requirements of such treatment and with the requirements imposed by the Secretary under subparagraph (B).

"(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirements is contributing to the achievement of the purposes of this title. The Secretary may retain jurisdiction in the case of a hearing before the Secretary under this title to the extent the Secretary determines necessary to carry out the preceding sentence. The Secretary shall annually submit to the Congress a full and complete report on the Secretary's activities under this paragraph.

"(C) The representative payee and the referral and monitoring agency for any individual described in subparagraph (A) shall report to the Secretary any noncompliance with the terms, conditions, and requirements of the treatment

described in subparagraph (A) and with the requirements imposed by the Secretary under subparagraph (B).

"(D)(i) If the Secretary finds that an individual is not complying with the terms, conditions, and requirements of the treatment described in subparagraph (A), or with the requirements imposed by the Secretary under subparagraph (B), or both, the Secretary, in lieu of termination, may suspend such individual's benefits under this title until compliance has been reestablished, including compliance with any additional requirements determined to be necessary by the Secretary.

"(ii) Any period of suspension under clause (i) shall be taken into account in determining any 24-month period described in subparagraph (E) and shall not be taken into account in determining the 36-month period described in such subparagraph.

"(E)(i) Except as provided in clause (ii), no individual described in subparagraph (A) shall be entitled to benefits under this title for any month following the 24-month period beginning with the determination of the disability described in such subparagraph.

"(ii) If at the end of the 24-month period described in clause (i), the individual furnishes evidence in accordance with subsection (d)(5) that the individual continues to be under a disability based in whole or in part on a medical determination that the individual is a drug addict or alcoholic, such individual shall continue to be entitled to benefits under this title based on such disability.

"(iii) Subject to clause (iv), if such an individual continues to be entitled to such benefits for an additional 24-month period following a determination under clause (ii), clauses (i) and (ii) shall apply with regard to any further entitlement to such benefits following the end of such additional period.

"(iv) In no event shall such an individual be entitled to benefits under this title for more than a total of 36 months, unless upon the termination of the 36th month such individual furnishes evidence in accordance with subsection (d)(5) that the individual is under a disability which is not related in part to a medical determination that the individual is a drug addict or alcoholic.

"(2)(A) Any benefits under this title payable to any individual referred to in paragraph (1), including any benefits payable in a lump sum amount, shall be payable only pursuant to a certification of such payment to a qualified organization acting as a representative payee of such individual pursuant to section 205(j).

"(B) For purposes of subparagraph (A) and section 205(j)(4), the term 'qualified organization'—

"(i) shall have the meaning given such term by section 205(j)(4)(B), and

"(ii) shall mean an agency or instrumentality of a State or a political subdivision of a State.

"(3) Monthly insurance benefits under this title which would be payable to any individual (other than the disabled individual to whom benefits are not payable by reason of this subsection) on the basis of the wages and self-employment income of such a disabled individual but for the provisions of paragraph (1), shall be payable as though such disabled individual were receiving such benefits which are not payable under this subsection."

(2) CONFORMING AMENDMENTS.—

(A) Section 205(j)(1) of such Act (42 U.S.C. 405(j)(1)) is amended by inserting "or in the case of any individual referred to in section 223(j)(1)(A)" after "thereby".

(B) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking "legally incompetent or under the age of 15" and inserting "legally incompetent, under the

age of 18, or a drug addict or alcoholic referred to in section 223(j)(1)(A)".

(b) **SUPPLEMENTAL SECURITY INCOME.**—Paragraph (3) of section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended to read as follows:

"(3)(A)(i) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if such individual's disability is based in whole or in part on a medical determination that the individual is a drug addict or alcoholic, unless such individual—

"(I) is undergoing, or on a waiting list for, any medical or psychological treatment that may be appropriate for such individual's condition as a drug addict or alcoholic (as the case may be) and for the stage of such individual's rehabilitation at an institution or facility approved for purposes of this paragraph by the Secretary (so long as access to such treatment is reasonably available, as determined by the Secretary), and

"(II) demonstrates in such manner as the Secretary requires, including at a continuing disability review not later than one year after such determination, that such individual is complying with the terms, conditions, and requirements of such treatment and with the requirements imposed by the Secretary under clause (ii).

"(ii) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in clause (i), in order to assure such compliance and to determine the extent to which the imposition of such requirements is contributing to the achievement of the purposes of this title. The Secretary may retain jurisdiction in the case of a hearing before the Secretary under this title to the extent the Secretary determines necessary to carry out the preceding sentence. The Secretary shall annually submit to the Congress a full and complete report on the Secretary's activities under this subparagraph.

"(iii) The representative payee and the referral and monitoring agency for any individual described in clause (i) shall report to the Secretary any noncompliance with the terms, conditions, and requirements of the treatment described in clause (i) and with the requirements imposed by the Secretary under clause (ii).

"(iv)(I) If the Secretary finds that an individual is not complying with the terms, conditions, and requirements of the treatment described in clause (i), or with the requirements imposed by the Secretary under clause (ii), or both, the Secretary, in lieu of termination, may suspend such individual's benefits under this title until compliance has been reestablished, including compliance with any additional requirements determined to be necessary by the Secretary.

"(II) Any period of suspension under subclause (I) shall be taken into account in determining any 24-month period described in clause (v) and shall not be taken into account in determining the 36-month period described in such clause.

"(v)(I) Except as provided in subclause (II), no individual described in clause (i) shall be entitled to benefits under this title for any month following the 24-month period beginning with the determination of the disability described in such clause.

"(II) If at the end of the 24-month period described in subclause (I), the individual furnishes evidence in accordance with section 223(d)(5) that the individual continues to be under a disability based in whole on a medical determination that the individual is a drug addict or alco-

holic, such individual shall be entitled to benefits under this title based on such disability for no more than an additional 36 months.

"(III) Subject to subclause (IV), if such an individual continues to be entitled to such benefits for an additional 24-month period following a determination under subclause (II), subclauses (I) and (II) shall apply with regard to any further entitlement to such benefits following the end of such additional period.

"(IV) In no event shall such an individual be entitled to benefits under this title for more than a total of 36 months, unless upon the termination of the 36th month such individual furnishes evidence in accordance with section 223(d)(5) that the individual is under a disability which is not related in part to a medical determination that the individual is a drug addict or alcoholic.

"(B)(i) Any benefits under this title payable to any individual referred to in subparagraph (A), including any benefits payable in a lump sum amount, shall be payable only pursuant to a certification of such payment to a qualified organization acting as a representative payee of such individual pursuant to section 1631(a)(2)(A)(ii).

"(ii) For purposes of clause (i) and section 1631(a)(2)(D), the term 'qualified organization'—

"(I) shall have the meaning given such term by section 1631(a)(2)(D)(ii), and

"(II) shall mean an agency or instrumentality of a State or a political subdivision of a State."

(c) **EFFECTIVE DATES; AUTHORIZATIONS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to benefits payable for determinations of disability made 90 or more days after the date of the enactment of this Act.

(2) **CURRENT DETERMINATIONS.**—

(A) **IN GENERAL.**—With respect to any individual described in subparagraph (B), the Secretary of Health and Human Services shall provide during the 3-year period beginning after the date of the enactment of this Act for the application of the amendments made by this section to such individual with the time periods described in such amendments to begin upon such application.

(B) **INDIVIDUAL DESCRIBED.**—An individual is described in this subparagraph if such individual is entitled to benefits under title II or XVI of the Social Security Act based on a disability determined before the date described in paragraph (1) to be based in whole or in part on a medical determination that the individual is a drug addict or alcoholic.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of the provisions of, and the amendments made by, this section.

SEC. 303. PRIORITY OF TREATMENT.

The Secretary of Health and Human Services, through the Administrator of the Substance Abuse and Mental Health Services Administration, shall assure that every individual receiving disability benefits under title II or XVI of the Social Security Act based in whole or in part on a medical determination that the individual is a drug addict or alcoholic be given high priority for treatment through entities supported by the various States through any substance abuse block grant authorized under law.

SEC. 304. ESTABLISHMENT OF REFERRAL MONITORING AGENCIES REQUIRED IN ALL STATES.

The Secretary of Health and Human Services shall, within 1 year of the date of the enactment of this Act, provide for the establishment of referral and monitoring agencies for each State for the purpose of carrying out the treatment requirements under sections 223(j)(1) and 1611(e)(3)(A) of the Social Security Act (42 U.S.C. 423(j)(1) and 1382(e)(3)(A)).

SEC. 305. PROCEEDS FROM CERTAIN CRIMINAL ACTIVITIES CONSTITUTE SUBSTANTIAL GAINFUL EMPLOYMENT.

(a) **SOCIAL SECURITY DISABILITY INSURANCE.**—Section 223(d)(4) of the Social Security Act (42 U.S.C. 423(d)(4)) is amended by inserting the following after the first sentence: "If an individual engages in a criminal activity to support substance abuse, any proceeds derived from such activity shall demonstrate such individual's ability to engage in substantial gainful activity."

(b) **SUPPLEMENTAL SECURITY INCOME.**—Section 1614(a)(3)(D) of the Social Security Act (42 U.S.C. 1382(a)(3)(D)) is amended by inserting the following after the first sentence: "If an individual engages in a criminal activity to support substance abuse, any proceeds derived from such activity shall demonstrate such individual's ability to engage in substantial gainful activity."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to disability determinations conducted on or after the date of the enactment of this Act.

SEC. 306. CONSISTENT PENALTY PROVISIONS FOR SSDI AND SSI PROGRAMS.

(a) **FELONY PENALTIES FOR FRAUD.**—

(1) **IN GENERAL.**—Subsection (a) of section 1631 of the Social Security Act (42 U.S.C. 1383a) is amended by striking "shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both" and inserting "shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both."

(2) **REPRESENTATIVE PAYEES.**—

(A) **SSDI.**—Subsections (b) and (c) of section 208 of such Act (42 U.S.C. 408) are amended to read as follows:

"(b)(1) Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 205(j) on behalf of another individual (other than such person's spouse or an entity described in section 223(j)(2)(B)(ii)), shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

"(2) In any case in which the court determines that a violation described in paragraph (1) includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

"(3) Any person or entity convicted of a felony under this section or under section 1632(b) may not be certified as a payee under section 205(j).

"(c) For the purpose of subsection (a)(7), the terms 'social security number' and 'social security account number' mean such numbers as are assigned by the Secretary under section 205(c)(2) whether or not, in actual use, such numbers are called social security numbers."

(B) **SSI.**—Subsection (b)(1) of section 1632 of such Act (42 U.S.C. 1383a) is amended by striking "(other than such person's spouse)" and all that follows through the period and inserting "(other than such person's spouse or an entity described in section 1611(e)(3)(B)(ii)(I)), shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both."

(b) **CIVIL ADMINISTRATIVE PENALTIES.**—

(1) **SSDI.**—Section 208 of the Social Security Act (42 U.S.C. 408) is amended by adding at the end the following new subsections:

"(e) For administrative penalties for false claims and statements with respect to which an

individual or other entity knows or has reason to know such falsity, see chapter 38 of title 31, United States Code.

"(f) In the case of the second or subsequent imposition of an administrative or criminal penalty on any person or other entity under this section, the Secretary may exclude such person or entity from participation in any program under this title and titles V, XVI, XVIII, and XX, and may direct that such person or entity be excluded from any State health care program (as defined in section 1128(h)) and any other Federal program as provided by law."

(2) *SSI*.—

(A) *IN GENERAL*.—Section 1632 of such Act (42 U.S.C. 1383a) is amended by adding at the end the following new subsections:

"(c) For administrative penalties for false claims and statements with respect to which an individual or other entity knows or has reason to know such falsity, see chapter 38 of title 31, United States Code.

"(d) In the case of the second or subsequent imposition of an administrative or criminal penalty on any person or other entity under this section, the Secretary may exclude such person or entity from participation in any program under this title and titles II, V, XVIII, and XX, and may direct that such person or entity be excluded from any State health care program (as defined in section 1128(h)) and any other Federal program as provided by law."

(B) *CONFORMING AMENDMENT*.—The heading for section 1632 of such Act (42 U.S.C. 1383a) is amended by striking "FOR FRAUD".

(C) *EFFECTIVE DATE*.—The amendments made by this section shall be effective on or after the date of the enactment of this Act.

The **PRESIDING OFFICER**. The chair appoints Mr. MOYNIHAN, Mr. BAUCUS, Mr. BREAUX, Mr. PACKWOOD, and Mr. DOLE conferees on the part of the Senate.

AUTHORIZING TESTIMONY AND REPRESENTATION OF FORMER EMPLOYEE OF THE SENATE

Mr. MITCHELL. Mr. President, on behalf of myself and the Republican leader, I send a resolution to the desk authorizing the testimony of a former Senate employee with representation by legal counsel, and I ask unanimous consent that the Senate proceed to its immediate consideration; that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table, and that a statement by myself be placed in the RECORD at the appropriate place.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

So the resolution (S. Res. 215) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 215

Whereas, in the case of *Sonja I. Anderson v. Kaiser Engineers Hanford Co.*, No. 94-ERA-14, pending in the United States Department of Labor, counsel for the complaint has requested deposition testimony from Robert Alvarez, a former employee of the Senate on the staff of the Committee on Governmental Affairs;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the

Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Robert Alvarez is authorized to testify in the case of *Sonja I. Anderson v. Kaiser Engineers Hanford Co.*, and any related proceedings, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Robert Alvarez in connection with his testimony in *Sonja I. Anderson v. Kaiser Engineers Hanford Co.*

Mr. MITCHELL. Mr. President, an employee of a Department of Energy contractor has filed a complaint before the Department of Labor named Sonja I. Anderson versus Kaiser Engineers Hanford Co., in which she alleges that her employer violated whistleblower protection provisions of the Energy Reorganization Act by retaliating against her for communication with the Government Affairs Committee and other Government entities about environmental and safety deficiencies at Hanford Nuclear Reservation.

Counsel for the complainant has requested that Robert Alvarez, a former employee on the staff of the Governmental Affairs Committee with whom she dealt, testify at a deposition about the significance of the information she provided to the committee. Mr. Alvarez is presently an official at the Department of Energy.

At the request of the Governmental Affairs Committee, this resolution would authorize Mr. Alvarez to testify in this proceeding, except about any matters for which the committee's privileges should be asserted, and authorize the Senate legal counsel to represent him in connection with his testimony.

MEASURE READ THE FIRST TIME—H.R. 2108

Mr. MITCHELL. Mr. President, I understand that the Senate has received from the House H.R. 2108, the Black Lung Benefits Restoration Act of 1994.

On behalf of Senator WELLSTONE, I ask that the bill be read for the first time.

The **PRESIDING OFFICER**. The clerk will read the bill for the first time.

The assistant legislative clerk read the bill for the first time.

Mr. MITCHELL. Mr. President, on behalf of Senator WELLSTONE I ask for its second reading, and on behalf of the Republican leader I object.

The **PRESIDING OFFICER**. Objection is heard.

The bill will be read for the second time on the next legislative day.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to proceed into executive session to consider, en bloc, the nominations of Derek Shearer and Sam Brown.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The Senate proceeded to the consideration of executive session.

CLOTURE MOTIONS

Mr. MITCHELL. Mr. President, I now send to the desk, en bloc, cloture motions on the Shearer and Brown nominations and ask that they be stated.

The **PRESIDING OFFICER**. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the first motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Derek Shearer to be Ambassador to Finland.

Claiborne Pell, Paul Wellstone, Dennis DeConcini, John F. Kerry, Carl Levin, Joseph Lieberman, John Glenn, Jeff Bingaman, Byron L. Dorgan, Kent Conrad, Frank R. Lautenberg, Daniel K. Akaka, Charles S. Robb, Pat Leahy, Tom Daschle, Harlan Mathews.

The **PRESIDING OFFICER**. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the next motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Sam W. Brown, Jr., for the rank of Ambassador during his tenure of service as Head of the Delegation to the Conference on Security and Cooperation in Europe.

Claiborne Pell, Paul Wellstone, Dennis DeConcini, John F. Kerry, Carl Levin, Joseph Lieberman, John Glenn, Jeff Bingaman, Byron L. Dorgan, Kent Conrad, Frank R. Lautenberg, Daniel K. Akaka, Charles S. Robb, Pat Leahy, Tom Daschle, Harlan Mathews.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILL SIGNED

Under the authority of the order of January 5, 1993, the Secretary of the

Senate on May 20, 1994, during the recess of the Senate received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

S. 2087. An act to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 8, 1994.

Under the authority of the order of January 5, 1993, the enrolled bill was signed on May 20, 1994, during the recess of the Senate, by the President pro tempore [Mr. BYRD].

PROHIBITION OF CERTAIN TRANSACTIONS WITH HAITI—MESSAGE FROM THE PRESIDENT—PM 117

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

On October 4, 1991, pursuant to the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1703 et seq.) and section 301 of the National Emergencies Act ("NEA") (50 U.S.C. 1601 et seq.), President Bush exercised his statutory authority to issue Executive Order No. 12775 on October 4, 1991, declaring a national emergency and blocking Haitian government property.

On October 28, 1991, pursuant to the above authorities, President Bush exercised his statutory authority to issue Executive Order No. 12779 on October 28, 1991, blocking property of and prohibiting transactions with Haiti.

On June 30, 1993, pursuant to the above authorities, as well as the United Nations Participation Act of 1945, as amended ("UNPA") (22 U.S.C. 287c), I exercised my statutory authority to issue Executive Order No. 12853 of June 30, 1993, to impose additional economic measures with respect to Haiti. This latter action was taken, in part, to ensure that the economic measures taken by the United States with respect to Haiti would fulfill its obligations under United Nations Security Council Resolution 841 of June 16, 1993.

On October 18, 1993, pursuant to the IEEPA and the NEA, I again exercised my statutory authority to issue Executive Order No. 12872 of October 18, 1993, blocking property of various persons with respect to Haiti.

On May 6, 1994, the United Nations Security Council adopted Resolution 917, calling on Member States to take additional measures to tighten the embargo against Haiti. On May 7, 1994, pursuant to the above authorities, I exercised my statutory authority and issued Executive Order No. 12914 of May 7, 1994, to impose additional economic measures with respect to Haiti. This latter action was taken, in part, to en-

sure that the economic measures taken by the United States with respect to Haiti would fulfill its obligations under the provisions of United Nations Security Council Resolution 917 that were effective immediately under that Resolution.

United Nations Security Council Resolution 917 contains several provisions required to become effective no later than May 21, 1994, to further tighten the embargo against Haiti. These include inter alia, a requirement that Member States prohibit importation of Haitian-origin products into their territories exported from Haiti after May 21, 1994, activities that promote importation or transshipment of such products, and dealing by their nationals, flag vessels, or aircraft in such products. In addition, the Resolution requires Member States to prevent the sale or supply of products to Haiti by their nationals or from their territories or using their flag vessels or aircraft, and activities that promote such sale or supply, with certain exceptions for humanitarian needs and trade in informational materials.

This new Executive order:

- bans importation into the United States of goods or services of Haitian origin exported after May 21, 1994, or activities that promote or are intended to promote such importation, except for informational materials;
- prohibits activities by U.S. persons or from the United States that promote exportation of transshipment of goods or Haitian origin exported after May 21, 1994, except for informational materials;
- prohibits dealings by U.S. persons or in the United States or using U.S.-registered vessels or aircraft in goods of Haitian origin exported after May 21, 1994, except for informational materials;
- prohibits the sale, supply, or exportation by U.S. persons or from the United States, or using U.S.-registered vessels or aircraft, of any goods to Haiti or in connection with Haitian businesses, or activities by U.S. persons or in the United States that promote such sale, supply, or exportation, except for informational materials, certain foodstuffs, and medicines and medical supplies;
- prohibits any transactions that evades or avoids or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions of this order; and
- authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to issue regulations implementing the provisions of the Executive order.

The new Executive order is necessary to implement certain provisions of United Nations Security Council Resolution 917 of May 6, 1994, which take effect no later than May 21, 1994, and re-

quire additional measures to tighten the embargo against Haiti with the goal of the restoration of democracy in that nation and the prompt return of the legitimately elected President, Jean-Bertrand Aristide, under the framework of the Governors Island Agreement.

I am providing this notice to the Congress pursuant to section 204(b) of the IEEPA (50 U.S.C. 1703(b)) and section 301 of the NEA (50 U.S.C. 1631). I am enclosing a copy of the Executive order that I have issued.

WILLIAM J. CLINTON.

THE WHITE HOUSE, May 21, 1994.

NATIONAL EMERGENCY RELATIVE TO THE PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS—MESSAGE FROM THE PRESIDENT—PM 118

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

On November 16, 1990, in light of the dangers of the proliferation of chemical and biological weapons, President Bush issued Executive Order No. 12735, and declared a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701, et seq.). Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on the anniversary date of its declaration unless the President publishes in the *Federal Register* and transmits to the Congress a notice of its continuation. On November 12, 1993, I extended the national emergency on the basis that the proliferation of chemical and biological weapons continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States.

Section 204 of the International Emergency Economic Powers Act and section 401(c) of the National Emergencies Act contain periodic reporting requirements regarding activities taken and money spent pursuant to an emergency declaration. The following report is made pursuant to those provisions. Additional information on chemical and biological weapons proliferation is contained in the report to the Congress provided pursuant to the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

The three export control regulations issued under the Enhanced Proliferation Control Initiative are fully in force and continue to be used to control the export of items with potential use in chemical or biological weapons (CBW) or unmanned delivery systems for weapons of mass destruction.

During the last 6 months, the United States has continued to address actively in its international diplomatic efforts the problem of the proliferation and use of CBW.

More than 150 nations have signed the Chemical Weapons Convention (CWC) and a number have already ratified it. On November 23, 1993, I submitted the CWC to the Senate for its advice and consent to ratification. I have urged all nations, including the United States, to ratify the Convention quickly so that it can enter into force at the earliest possible date of January 13, 1995. We also have continued to urge those countries that have not signed the Convention to do so. The United States plays a leading role in the work of the CWC Preparatory Commission headquartered in The Hague, to elaborate the technical and administrative procedures for implementing the Convention.

The United States participated actively in the Ad Hoc Group of Government Experts convened by the Third Biological Weapons Review Conference to identify and examine potential verification measures. The consensus final report of the experts group will be considered at a Special Conference of States Parties, to be held September 19-30, 1994. The United States supports the holding of a Special Conference and will promote new transparency measures to help strengthen the Convention.

The membership of the Australia Group (AG) of countries cooperating against CBW proliferation stands at 25. At the December 1993 meeting of the AG, members reiterated their commitment to comprehensive and global chemical and biological disarmament, which can only be achieved by the early entry into force and effective and universal implementation of the CWC and full compliance with the Biological Weapons Convention. In this context, members stressed the importance of encouraging the widest possible adherence to the CWC.

Experts at the December AG meeting also discussed ways of implementing CBW export controls more effectively. The Group considered streamlining licensing procedures applicable to mixtures and small quantities of precursor chemicals, with a view to facilitating legitimate trade without increasing the risk of contributing to potential weapons production. It also took steps to enhance cooperation in enforcement of existing controls.

The United States Government determined that three commercial entities in Thailand had engaged in chemical weapons proliferation activities that required the imposition of trade sanctions against the entities, effective on February 8, 1994. Additional information on this determination is contained in a classified report to the Congress provided pursuant to the Chemical and

Biological Weapons Control and Warfare Elimination Act of 1991.

Progress also was made in the steps taken by countries outside the AG to extend chemical weapons-related export controls. For example, the Royal Thai Government adopted regulations to prevent the export of Thai laborers to programs of CBW concern. Poland enacted legislation to implement controls on CBW-related items.

Pursuant to section 401(c) of the National Emergencies Act, I report that there were no additional expenses directly attributable to the exercise of authorities conferred by the declaration of the national emergency.

WILLIAM J. CLINTON.

THE WHITE HOUSE, May 23, 1994.

AMENDMENT TO THE AGREEMENT FOR COOPERATION ON THE USES OF ATOMIC ENERGY FOR MUTUAL DEFENSE PURPOSES—MESSAGE FROM THE PRESIDENT—PM 119

The PRESIDING OFFICER laid before the Senate a message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to section 123d. of the Atomic Energy Act of 1954, as amended, the text of an amendment to the Agreement Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes of July 3, 1958, as amended, and my written approval, authorization, and determination concerning the agreement. The joint unclassified letter submitted to me by the Secretaries of Energy and Defense that provide a summary position on the Amendment is also enclosed.

The Amendment extends for 10 years (until December 31, 2004) provisions which permit the transfer of non-nuclear parts, source, byproduct, special nuclear materials, and other material and technology for nuclear weapons and military reactors, and revises text, principally in the Security Annex, to be consistent with current policies and practices relating to personnel and physical security. Additionally, certain activities related to naval nuclear reactor plant technology have been completed and those provisions have been deleted from the Supplemental Technical Annex.

In my judgment, the proposed Amendment meets all statutory requirements. The United Kingdom intends to continue to maintain viable nuclear forces. In light of our previous close cooperation and the fact that the

United Kingdom has committed its nuclear forces to the North Atlantic Treaty Organization, I have concluded that it is in our interest to continue to assist them in maintaining a credible nuclear force.

I have approved the Amendment, authorized its execution, and urge that the Congress give it favorable consideration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, May 23, 1994.

MESSAGES FROM THE HOUSE

At 12:05 p.m., a message from the House of Representative, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2108. An Act to make improvements in the Black Lung Benefits Act.

H.R. 3419. An Act to simplify certain provisions of the Internal Revenue Code of 1986, and for other purposes.

The message also announced that the Speaker appoints the following Members as additional conferees on the part of the House in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 322) to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for the purposes:

As additional conferees from the Commission on Agriculture, for consideration of sections 107, 201-209, 301-304, 404, 407, 408, 411, 416, 418, and 419 of the House bill, and sections 7-10 and 12 of the Senate amendment, and modifications committed to conference: Mr. DE LA GARZA, Mr. ROSE, and Mr. ROBERTS.

As additional conferees from the Committee on Education and Labor, for consideration of section 7 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. MURPHY, and Mr. FAWELL.

As additional conferees from the Committee on Energy and Commerce for consideration of sections 3, 201-208, 301-303, 414, and 420 of the House bill, and sections 7, 8, and 12 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. SWIFT, and Mr. CRAPO.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 3, 201-209, 301-304, and 414 of the House bill, and sections 7, 8, and 12 of the Senate amendment, and modifications committed to conference: Mr. STUDDS, Mr. HUGHES, and Mr. FIELDS of Texas.

At 2:14 p.m., a message for the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two

Houses on the amendment of the Senate to the bill H.R. 965 to provide for toy safety and for other purposes.

MEASURES REFERRED

The following bill was read the first and second time, by unanimous consent; and referred as indicated:

H.R. 3419. An act to simplify certain provisions of the International Revenue Code of 1986, and for other purposes; to the Committee on Finance.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2108. An act to make improvements to the Black Lung Benefits Act.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on May 20, 1994, she had presented to the President of the United States, the following enrolled bills and joint resolution:

S. 2024. An act to provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes.

S. 2087. An act to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 8, 1994.

S.J. Res. 168. Joint resolution designating May 11, 1994 as "Vietnam Human Rights Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2675. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Coal Diesel Combined-Cycle Project"; to the Committee on Energy and Natural Resources.

EC-2676. A communication from the Secretary of Commerce, transmitting, a draft of proposed legislation to amend the Magnuson Fishery Conservation and Management Act; to the Committee on Commerce, Science and Transportation.

EC-2677. A communication from the Secretary of transportation, transmitting, pursuant to law, a report relative to the operation of the Coast Guard as a service of the Navy; to the Committee on Commerce, Science and Transportation.

EC-2678. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the accomplishments of the Airport Improvement Program for fiscal year 1993; to the Committee on Commerce, Science and Transportation.

EC-2679. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report of the Maritime Administration for fiscal year 1993; to

the Committee on Commerce, Science and Transportation.

EC-2680. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Transportation Statistics Annual Report, dated January 1994; to the Committee on Commerce, Science and Transportation.

EC-2681. A communication from the Secretary of Commerce, Science and Transportation, transmitting, a draft of proposed legislation to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes; to the Committee on Commerce, Science and Transportation.

EC-2682. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, a report relative to the reauthorization of the Board; to the Committee on Commerce, Science and Transportation.

EC-2683. A communication from the Under Secretary of Commerce for Oceans and Atmosphere, transmitting, pursuant to law, the biennial report of the Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration for fiscal years 1992 and 1993; to the Committee on Commerce, Science and Transportation.

EC-2684. A communication from the Assistant Secretary of State (Legislative Affairs) transmitting, pursuant to law, a report relative to the incidental capture of sea turtles in commercial shrimping operations; to the Committee on Commerce, Science and Transportation.

EC-2685. A communication from the Assistant Administrator for Weather Services, Department of Commerce, transmitting, pursuant to law, the National Hydrologic Outlook, dated March 28, 1994; to the Committee on Commerce, Science and Transportation.

EC-2686. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the fiscal year 1995 budget requests of the Federal Aviation Administration; to the Committee on Commerce, Science and Transportation.

EC-2687. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to amend the Federal Railroad Safety Act of 1970, and for other purposes; to the Committee on Commerce, Science and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUE, from the Committee on Indian Affairs, without amendment:

S. 1066. A bill to restore Federal services to the Pokagon Band of Potawatomi Indians (Rept. No. 103-266).

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1626. A bill to amend title 38, United States Code, to revise the veterans' home loan program (Rept. No. 103-267).

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 1974. A bill to authorize the Secretary of Veterans Affairs to conduct pilot programs in order to evaluate the feasibility of the participation of the Department of Veterans Affairs health care system in the health care systems of States that have enacted health care reform (Rept. No. 103-268).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WARNER (for himself and Mr. ROBB):

S. 2142. A bill to designate certain lands in the Commonwealth of Virginia as a National Scenic Area for protection of the watershed and scenic values, recreation use, protection of wildlife and their habitat, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MITCHELL (for Mr. HOLLINGS):

S. 2143. A bill to amend the Internal Revenue Code of 1986 to impose a value added tax and to use the receipts from the tax to reduce the Federal budget deficit and Federal debt and to finance health care reform; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. SIMON, Mr. DODD, Mr. LEAHY, Mr. METZENBAUM, and Mr. WELLSTONE):

S. 2144. A bill to amend the Individuals with Disabilities Education Act to provide family support for families of children with disabilities, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 215. A resolution to authorize testimony and representation of former employee of the Senate in *Sonja I. Anderson v. Kaiser Engineers Hanford Co*; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER (for himself and Mr. ROBB):

S. 2142. A bill to designate certain lands in the Commonwealth of Virginia as a National Scenic Area for protection of the watershed and scenic values, recreation use, protection of wildlife and their habitat, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

MOUNT PLEASANT NATIONAL SCENIC AREA

Mr. WARNER. Mr. President, today on behalf of myself and Senator ROBB to introduce legislation to designate certain lands in the Commonwealth of Virginia as a national scenic area for protection of the watershed and scenic values, recreation use, and for protection of wildlife and their habitat. This is a companion measure to legislation, H.R. 2942, introduced in the House of Representatives by Virginia Congressman BOB GOODLATTE.

My bill may be referred to as the Mount Pleasant National Scenic Area Act of 1994.

The purpose of my legislation is to protect an area surrounding Mount

Pleasant in Amherst County, VA, by designating approximately 7,580 acres in the region as a national scenic area. Such a designation will help to protect Mount Pleasant from environmental damage, allow fish and other wildlife to flourish and preserve old forest stands within the area.

It is important to point out to my colleagues that the Mount Pleasant Scenic Area Act has the support of the entire Virginia congressional delegation. Each member from the 11 congressional district's in the Commonwealth has signed onto H.R. 2942. My colleague in the Senate, Senator ROBB, is an original cosponsor of my legislation.

This legislation was developed at the grassroots level with the strong support and influence of the Amherst County Board of Supervisors, local sportsmen, business leaders, hikers, and area families. They all expressed their desire to permanently protect the Mount Pleasant area and its valuable natural resources such as the Buffalo River's watershed, native wild trout streams, a portion of the historic Appalachian Trail, and many other valuable features.

While all of those involved in this process agreed on the need for protecting the Mount Pleasant area, a broad range of options and opinions were expressed and considered prior to the consensus reached on a scenic area designation. In the end, it was overwhelmingly agreed upon that the scenic area approach would provide a permanent framework for sound management with the flexibility needed to manage the protected area locally. This legislation will ensure that the Mount Pleasant area will be available for everyone to enjoy for years to come.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Finally, I ask my colleagues to support this measure and hope for its swift consideration and approval.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mount Pleasant National Scenic Area Act."

SEC. 2. PURPOSES.

The purposes of this Act with respect to the Mount Pleasant National Scenic Area are to—

- (1) ensure appropriate protection and preservation of the scenic quality, water quality, natural characteristics, and water resources;
- (2) protect and manage vegetation to provide wildlife and fish habitat, consistent with paragraph (1) above;
- (3) provide areas that may develop characteristics of old-growth forests; and
- (4) provide a variety of recreation opportunities that are not inconsistent with the purposes set forth above.

SEC. 3. ESTABLISHMENT OF THE NATIONAL SCENIC AREA.

(a) IN GENERAL.—(1) There is hereby established in the George Washington National Forest, Virginia, the Mount Pleasant National Scenic Area (hereinafter referred to in this Act as the "scenic area").

(2) The scenic area shall consist of certain lands in the George Washington National Forest, Virginia, which comprise 7,580 acres, more or less, as generally depicted on a map entitled "Mount Pleasant National Scenic Area—Proposed", dated June 21, 1993.

(b) ADMINISTRATION.—The Secretary of Agriculture, (hereinafter referred to in this Act as the "Secretary") shall administer the scenic area in accordance with this Act and the laws and regulations generally applicable to the National Forest System. In the event of conflict between this Act and other laws and regulations, this Act shall take precedence.

(c) ROADS.—After the date of enactment of this Act, no new permanent roads shall be constructed within the scenic area; *Provided*, that this provision shall not be construed to deny access to private lands or interests therein in the scenic area.

(d) VEGETATION MANAGEMENT.—No timber harvest shall be allowed within the scenic area, except as may be necessary in the control of fire, insects, and diseases and to provide for public safety and trail access. Notwithstanding the foregoing, the Secretary may engage in vegetation manipulation practices for maintenance of existing wildlife clearings and visual quality. Firewood may be harvested for personal use along perimeter roads under such conditions as the Secretary may impose.

(e) MOTORIZED TRAVEL.—Motorized travel shall be allowed on State Route 635 and on Forest Development Road 51, such Road 51 shall be subject to those motorized travel conditions the Secretary may impose. Other than as provided above, motorized travel shall not be permitted within the scenic area, except that such travel may be permitted within the area as necessary for administrative use in furtherance of the purposes of this Act and on temporary routes in support of wildlife management projects.

(f) FIRE.—Wildfires shall be suppressed in a manner consistent with the purposes of this Act, using such means as the Secretary deems appropriate.

(g) INSECTS AND DISEASE.—Insect and disease outbreaks may be controlled in the scenic area to maintain scenic quality, prevent tree mortality, reduce hazards to visitors or to protect private lands.

(h) WATER.—The scenic area shall be administered so as to maintain or enhance existing water quality.

(i) MAPS AND DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and boundary description of the scenic area with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and the Committee on Agriculture of the United States House of Representatives. The map and description shall have the same force and effect as if included in this Act, except that the Secretary is authorized to correct clerical and typographical errors in such boundary description and map. Such map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture. In the case of any discrepancy between the acreage and the map described in subsection (a)(2), the map shall control.

(j) MANAGEMENT PLAN.—Within 3 years of enactment of this Act, the Secretary shall

develop a management plan for the scenic area as an amendment to the Land and Resource Management Plan for the George Washington National Forest. Such an amendment shall conform to the provisions of this Act. Nothing in this Act shall require the Secretary to revise the Land and Resource Management Plan for the George Washington National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974.

(k) WITHDRAWAL.—Subject to valid existing rights, all federally owned lands within the scenic area are hereby withdrawn from disposition under the mining, mineral, and geothermal leasing laws, including all amendments thereto.

By Mr. MITCHELL (for Mr. HOLLINGS):

S. 2143. A bill to amend the Internal Revenue Code of 1986 to impose a value added tax and to use the receipts from the tax to reduce the Federal budget deficit and Federal debt and to finance health care reform; to the Committee on Finance.

DEFICIT AND DEBT REDUCTION AND HEALTH CARE FINANCING ACT OF 1994

• Mr. HOLLINGS. Mr. President, I rise to introduce the Deficit Reduction and Health Care Finance Act of 1994. This bill would create a 5-percent national value-added tax, with all revenues set aside in a trust fund to finance deficit reduction and health care reform.

Mr. President, I offer this bill under duress. It is the only way I know—in tandem with deeper spending cuts—to deal with the fiscal recklessness that has gotten out of hand in this city.

Congress is now talking about an additional \$700 million for Head Start. Earlier it was \$900 million more for housing. Before that, it was millions more for peacekeeping in Rwanda and \$750 million for South Africa. The push for new spending is endless. And both Republicans and Democrats are leading the charge. Both want health reform that will increase the deficit \$150 billion over 5 years, welfare reform \$46 billion, trade reform or GATT \$34 billion, crime reform \$25 billion, maritime reform \$1 billion, immigration reform \$1 billion, environmental reform \$2 billion, technology reform \$2 billion, education reform \$700 million, California earthquake \$8.8 billion, and on and on. Both parties are driving to spend \$200 billion more on reforms while this minute we are already spending \$300 billion a year more than we are taking in. Let me be specific. In the Senate Budget Committee report on page 7, section 3 is entitled "Debt Increase as a Measure of Deficit" and reads: "The amounts of the increase in the public debt subject to limitation are as follows:

Fiscal year 1995: \$306,700,000,000.

Fiscal year 1996: \$315,200,000,000.

Fiscal year 1997: \$332,400,000,000.

Fiscal year 1998: \$334,200,000,000.

Fiscal year 1999: \$344,200,000,000.

These are the amounts we borrow each year. These are the annual defi-

cits. The deficit for the present fiscal year is \$338 billion, meaning that to cut spending, to put the government operating in the black, which we all contend for would require a cut of \$338 billion. Add to this the \$200 billion or more in reform spending and you must cut \$500 billion from a budget of \$1.5 trillion to put us on a pay-as-you-go basis. This would require eliminating the domestic departments of government such as the President, the Congress, the courts, the FBI, the DEA, the Departments of Interior, Commerce, Agriculture, Treasury, Environment, Energy, et cetera, and eliminating two-thirds of the defense budget. Of course this couldn't and shouldn't happen.

But the point is that yes, we have got to cut spending. But yes, we have got to raise taxes. "But the people won't go for that" is a typical rejoinder. The trouble is that the people are already going for a daily increase in taxes of a billion dollars and don't know it. How is this? This year, the national debt will be \$4.7 trillion and the annual interest cost is \$300 billion. This means that almost every day except Sunday, the first thing the Government does each morning is go down and borrow a billion a day and add it to the national debt. The debt will soar to \$5 trillion by next year. And the daily increase in interest taxes will continue. The only way we can prevent a fiscal catastrophe is to both cut spending and raise taxes. These tax revenues should be allocated to a trust fund to pay for health reform and to reduce the deficit and the debt. Bluntly put, the only way we can stop increasing taxes is to increase taxes.

All of us in Congress know this. But we also know that to face reality, having pledged in campaigns that we are against taxes, no one would dare vote for a tax increase. So the big charade, the fraud, the government by stealth, employing any twist, any turn to obscure, to mislead, to avoid. Mark Twain said that the truth is such a precious thing it should be used very sparingly. First we institute caps on spending to make people believe we have caps on spending. Then we spend \$11.8 billion by labelling it emergency above the caps. We say it's not an increase in the deficit even though we've just borrowed it. Since the caps control the parliamentary rules on spending, we try to provide and limit at the same time.

Locked into this craziness, we try to pay for immigration by raising taxes on communications. We hide 33 other tax increases deep in the budget and label them "fees." We borrow billions from one government program and apply them to another government program to hide the size of the deficit. For example, we will use \$70 billion of the Social Security Trust Fund this year and apply it to the deficit. By the year

2000, we will owe Social Security over \$1 trillion. We mandate our responsibilities to the State and local government but refuse to provide the funds. We blast forth with Goals 2000 in education, unfunded—more headlines than headway.

A sign at the airport parking lot used to read "Reserved for Courts, Diplomats and Members of Congress"; this week it was changed to read "Authorized Parking Only." To show our disapproval of all these shenanigans, we attack the Congress as corrupt, passing silly measures to eliminate so-called perks. The Senate's problem is not that it is corrupt or on the take. It isn't. Our problem is that we are incompetent. We are not doing the job that we are sent to Washington to do. We are supposed to care for the needs of the people within the Nation's means. Rather than wasting time on meaningless sense-of-the-Senate resolutions and motions to instruct conferees, we should attack the long-range problems such as our fiscal mess. We haven't paid a bill since Lyndon Johnson's days.

This nonsense not only impacts the economy severely; it debases our democracy. For democracy to be sustained, the people must be informed. The people don't know what is happening to them. They know something is wrong. We are constantly having elections with the candidates promising to clean up the mess. But nothing happens. Conditions worsen. So everyone cries for term limitations. Perhaps if by law we can throw the rascals out, at least we can have a new group of rascals.

It's time we stopped using the Government merely for our political security and start performing for the people. It is time to stop government by stealth.

For starters, let's eliminate the space station, the Milstar satellite program, the Osprey vertical take-off and landing plane, the \$130 million tourist centers such as the one at Boulder Dam, the \$65 million embassies and any other program that we can get votes to eliminate. But we will still need taxes.

Mr. President, with the bill I propose a 5-percent national value-added tax without exemptions. The VAT is essentially like a national sales tax. Heretofore, there had been three principal objections to a VAT: First, it is regressive; second, it is too complicated; and third, it raises too much money and would cause waste. Let me address each of these objections in turn.

First the issue of regressivity. I agree. The fact is that all taxes are inherently regressive. With a consumption tax, the more you consume, the more you pay; the less you consume, the less you pay. The VAT does fall disproportionately on lower income brackets. But the VAT is not nearly as regressive as interest costs on the na-

tional debt. It is not nearly as regressive as the debt's inflationary impact on the economy, which disproportionately harms the poor.

Second, it is said that the VAT is too complicated. Well, it's certainly not too complicated for the Japanese, the Koreans, and every member of the European Economic Community. In fact, the average VAT in Europe is 17 percent, in Korea it's 25 percent. We can minimize the complication by drawing on the lessons of these other countries, as well as the experience of States with sales taxes.

Third, some say that a VAT would raise too much money. This is a dream. We will need every dime raised by a 5-percent VAT, plus savings from additional steep spending cuts, in order to eliminate the deficit. Even then, it will take years to get the Government operating in the black.

A VAT will help us not only to eliminate the deficit while paying cash on the barrel head for health care reform. It will also contribute to eliminating our other great deficit—the trade deficit. At present, our overseas competitors rebate to their manufacturers the VAT on all goods exported to the United States; those manufacturers' other in-country taxes are relatively low. In stark contrast, producers in the United States pay property taxes, income taxes, excise taxes, Social Security taxes and much more; then, when their goods are shipped overseas, the importing country slaps a fat VAT tax on top of all those other taxes. This does tremendous harm to the competitiveness of U.S. products abroad. It makes it financially attractive to produce outside the United States, and represents at least a 15-percent disadvantage in international trade. A U.S. VAT would eliminate this disadvantage. With good reason, Lester Thurow of MIT says that "the rules of international trade make you stupid if you don't have a VAT."

I am under no illusions as to the political trauma involved in enacting a major new tax in an election year—or any other year. That's the point: It's never a good time to raise a tax. Meanwhile, however, our financial crisis worsens every day.

If our goal is to make this Congress honest, then free lunches are the least of our problems. It is time to expose the stealth government in our midst. It is time to reform that stealth government with honest accounting practices and honest taxes. I propose a single, ultra-simple reform—a reform that would transform the reputation of Congress in the eyes of the American people. That reform is to put the U.S. Government on a pay-as-you-go basis.●

By Mr. HARKIN (for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. SIMON, Mr. DODD, Mr. LEAHY, Mr. METZENBAUM, and Mr. WELLSTONE):

S. 2144. A bill to amend the Individuals with Disabilities Education Act to provide family support for families of children with disabilities, and for other purposes; to the Committee on Labor and Human Resources.

SUPPORT FOR FAMILIES WITH CHILDREN WITH DISABILITIES ACT OF 1994

• **Mr. HARKIN.** Mr. President, For the past 18 months, families of children with disabilities from Iowa and throughout the country, together with the Consortium for Citizens with Disabilities, have worked to develop recommendations for Federal legislation on family support for families of children with disabilities.

The results of these broad-based, grassroots efforts are reflected in a bill, the Support for Families with Children With Disabilities Act of 1994, which I am introducing today, along with my colleagues Senators JEFFORDS, KENNEDY, SIMON, DODD, LEAHY, METZENBAUM, and WELLSTONE.

Let me briefly explain why I believe this legislation is necessary. When Congress enacted the Americans with Disabilities Act in 1990, we did more than pass comprehensive civil rights legislation. We also enunciated the fundamental precept of our national disability policy—that disability is a natural part of the human experience that in no way diminishes the fundamental right of individuals with disabilities to live independently, enjoy self-determination, make choices, contribute to society, and enjoy full inclusion and integration in all aspects of American society.

On the day the Senate finally passed the ADA, I made a dedication:

All across our Nation mothers are giving birth to infants with disabilities. So I want to dedicate the Americans with Disabilities Act to these, the next generation of children and their families.

With the passage of the ADA, we as a society make a pledge that every child with a disability will have the opportunity to maximize this or her potential to live proud, productive, and prosperous lives in the mainstream of our society. We love you all and welcome you into the world. We look forward to becoming your friends, your neighbors, and your coworkers.

We say, whatever you decide as your goal, go for it. The doors are opening and the barriers are coming down.

The unfortunate truth is that our current so-called system of services does not empower families to raise their children with disabilities at home and in their communities.

I believe the Support for Families With Children with Disabilities Act of 1994 will help us transform those current State systems, which foster dependence, separation, and paternalism into systems that foster inclusion, independence, and empowerment. The bill assists States, through "systems change" grants, develop or expand and improve family centered and family directed, community-centered, com-

prehensive, statewide systems of family supports for families of children with disabilities that are true to the precepts of the ADA.

Mr. President, I ask unanimous consent to insert in the RECORD following my remarks a brief description of the bill.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE SUPPORT FOR FAMILIES WITH CHILDREN WITH DISABILITIES ACT OF 1994

INTRODUCTION

The major focus of the bill is to provide competitive grants to States to develop or enhance statewide systems of family support. The bill recognizes that States have different levels of development of statewide systems of family support. For States that are just beginning to develop family support systems, the bill allows them to apply for State grants to "develop and implement" these systems. States that have made significant progress in the development of family-centered and family-directed approaches to family support may apply for State grants to "expand and enhance" statewide systems of family support.

The bill is not intended to provide support for direct services to families of children with disabilities or to create new entitlements. It is designed as a "systems change" bill to assist States and families to work in partnership to develop statewide systems of family support that are family-centered and family-directed and that use existing resources more efficiently. It is intended to address the priorities and concerns of those families who want to raise their children with disabilities at home and in their communities.

FINDINGS

The findings of the bill recognize, among other things, that: children benefit from enduring family relationships in a nurturing home environment; many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities; there are financial disincentives for families to care for their children with disabilities at home; supporting families to care for their children with disabilities at home is efficient and cost-effective; and there is a need for statewide, comprehensive, coordinated, interagency systems of family support that is family-centered and family-directed, easily accessible, and that avoids duplication, uses existing resources more efficiently, and prevents gaps in services.

PURPOSE

The purpose of the bill is to (1) provide financial assistance to States to support systems change and advocacy activities to assist each State to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities and to ensure the full participation, choice and control by families of children with disabilities; (2) identify federal policies that facilitate or impede the provision of family support; and (3) enhance the ability of the Federal Government to provide technical assistance and information to States, conduct a national evaluation of the program of grants to States, and provide funding for model demonstration and innovation projects.

POLICY

The bill states that it is the policy of the United States that all activities carried out under this Act shall be family-centered and family-directed, and shall be consistent with the following principles: family support must focus on the needs of the entire family; families should be supported in determining their own needs and in making decisions concerning necessary, desirable, and appropriate services; families should play decision-making roles in policies and programs that affect their lives; family needs change over time, and family support must be flexible, and respond to the unique needs, strengths and cultural values of the family; family support is proactive and not solely in response to a crisis; families should be supported in promoting the integration and inclusion of their children with disabilities into the community; family support should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources; youth with disabilities should be involved in decision-making about their own lives; and services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences and cultural differences.

GRANTS TO STATES

The bill authorizes grants to States to be awarded on a competitive basis for a period of three years. Grants may range from \$200,000 to \$500,000 based on the amounts available and the child population of the State. The bill directs the Secretary to award grants to States in a manner that is geographically equitable and distributes the grants among States that have differing levels of development of statewide systems of family support.

In order to receive a grant, States must submit an application with specified information and assurances, including:

The designation of a lead entity in the State, which may be an office or commission of the Governor, a public agency, an established council, or another appropriate office, agency, or entity.

The establishment of a State Family Support Policy Council, comprised of a majority of family members of children with disabilities or individuals with disabilities, and State agency representatives, and others. The Council shall meet quarterly and advise and assist the lead entity in the development and implementation of a statewide system of family support. Established Councils that are comparable to the Council required may be designated as the State Family Support Policy Council.

A preliminary plan, and a description of the steps that the State will take to develop a strategic plan. A State receiving a grant must, within the first year, prepare and submit a strategic plan designed to achieve the purposes and policy of this Act. The plan must be developed by the lead entity in conjunction with the State Family Support Policy Council, and must be updated annually.

An assurance that families are actively involved in all aspects of the State program.

An assurance that the State will submit an annual progress report that documents progress in developing and implementing, or expanding and enhancing, a statewide system of family support.

An assurance that the State will expend at least 65% of the funds made available on grants and contracts to conduct authorized activities. The bill describes a number of authorized activities that a State may carry

out to accomplish the purpose of the Act. These activities include training and technical assistance, interagency coordination, support of local and regional councils, outreach, advocacy, policy studies, hearings and forums, and public awareness and education. The bill specifies that grant applications shall be reviewed by panels of experts that are composed of a majority of family members.

TECHNICAL ASSISTANCE

The bill authorizes the Secretary to provide, through grants, contracts or cooperative agreements, technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support. The technical assistance and information shall be provided to the lead entity, the State Family Support Policy Council, families, advocates, service providers, and policymakers.

EVALUATION

The bill authorizes the Secretary to conduct, through grants, contracts or cooperative agreements, a national evaluation of the program of grants to States.

PROJECTS OF NATIONAL SIGNIFICANCE

The bill authorizes the Secretary to conduct a study to review Federal programs to determine the extent to which these programs facilitate or impede family support. The Secretary may also fund demonstration and innovation projects to support the development of national and State policies and practices related to family support.

AUTHORIZATION OF APPROPRIATIONS

The bill authorizes to be appropriated \$10,000,000 for FY 1995 and such sums for FY 1996 and 1997.

ADDITIONAL COSPONSORS

S. 651

At the request of Ms. MIKULSKI, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 651, a bill to amend the Office of Federal Procurement Policy Act to provide for expanded participation of historically Black colleges and universities and nonprofit organizations owned and controlled by Black Americans in federally funded research and development activities.

S. 774

At the request of Mr. WOFFORD, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 774, a bill to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, extend such Commission, establish a national Service Day to promote community service, and for other purposes.

S. 1208

At the request of Mr. WOFFORD, the names of the Senator from Virginia [Mr. ROBB], the Senator from Kansas [Mr. DOLE], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1288

At the request of Mr. AKAKA, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1485

At the request of Mr. BURNS, his name was added as a cosponsor of S. 1485, a bill to extend certain satellite carrier compulsory licenses, and for other purposes.

S. 1691

At the request of Mr. CONRAD, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1691, a bill to amend the Internal Revenue Code of 1986 to provide taxpayers engaged in certain agriculture-related activities a credit against income tax for property used to control environmental pollution and for soil and water conservation expenditures.

S. 1729

At the request of Mr. DOMENICI, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1729, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 Federal income tax rate increases on trusts established for the benefit of individuals with disabilities or for college education costs of a beneficiary.

S. 1805

At the request of Mr. WARNER, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 1945

At the request of Mr. HOLLINGS, the name of the Senator from Louisiana [Mr. BREAU] was added as a cosponsor of S. 1945, a bill to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes.

S. 1952

At the request of Mr. JOHNSTON, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1952, a bill to authorize the minting of coins to commemorate the 175th anniversary of the founding of the United States Botanic Garden.

S. 1986

At the request of Mr. BREAU, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1986, a bill to amend the Internal

Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing.

S. 1994

At the request of Mr. SMITH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1994, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to make comprehensive improvements in provisions relating to liability, State implementation, remedy selection, and funding, and for other purposes.

S. 2007

At the request of Mr. WOFFORD, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2007, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the end of World War II and Gen. George C. Marshall's service therein.

S. 2029

At the request of Mr. BREAU, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2029, a bill to amend the Internal Revenue Code of 1986 to allow the taxable sale or use, without penalty, of dyed diesel fuel with respect to recreational boaters.

S. 2065

At the request of Mr. HARKIN, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Montana [Mr. BURNS], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of S. 2065, a bill to amend the Federal Water Pollution Control Act to require the Administrator of the Environmental Protection Agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing regulations under the act, and for other purposes.

SENATE JOINT RESOLUTION 90

At the request of Mr. ROBB, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

SENATE JOINT RESOLUTION 158

At the request of Mr. WOFFORD, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Joint Resolution 158, a joint resolution to designate both the month of August 1994 and the month of August 1995 as "National Slovak American Heritage Month."

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 165, a joint resolution to designate the month of

September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 175

At the request of Mr. MCCAIN, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Utah [Mr. BENNETT], the Senator from California [Mrs. BOXER], the Senator from Nevada [Mr. BRYAN], the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Maine [Mr. COHEN], the Senator from Idaho [Mr. CRAIG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. GORTON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Georgia [Mr. NUNN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Virginia [Mr. ROBB], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 175, a joint resolution to designate the week beginning June 13, 1994, as "National Parkinson Disease Awareness Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year."

SENATE JOINT RESOLUTION 187

At the request of Mr. HOLLINGS, the names of the Senator from Michigan [Mr. LEVIN], the Senator from New York [Mr. D'AMATO], the Senator from Utah [Mr. HATCH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Mississippi [Mr. LOTT], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Illinois [Mr. SIMON], the Senator from Rhode Island [Mr. PELL], the Senator from Colorado [Mr. BROWN], the Senator from Hawaii [Mr. AKAKA], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from South Carolina [Mr. THURMOND], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Texas [Mrs. HUTCHISON], the Senator from California [Mrs. BOXER], the Senator from Nevada [Mr. REID], the Senator from Nebraska [Mr. EXON], the Senator from Washington [Mr. GORTON], the Senator from Missouri [Mr. BOND], the Senator from Florida [Mr. MACK], the Senator from Mississippi [Mr. COCHRAN], the Senator from Arkansas [Mr. PRYOR], the Senator from Nebraska [Mr. KERREY], the Senator from Georgia [Mr. NUNN], the Senator from Alaska [Mr. STEVENS], the Senator from Tennessee [Mr. MATHEWS], the Senator from Ohio [Mr. METZEN-

BAUM], the Senator from New York [Mr. MOYNIHAN], the Senator from Kansas [Mr. DOLE], the Senator from Delaware [Mr. ROTH], the Senator from Maine [Mr. COHEN], the Senator from Indiana [Mr. COATS], the Senator from Arizona [Mr. MCCAIN], the Senator from Florida [Mr. GRAHAM], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Texas [Mr. GRAMM], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 187, a joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance."

SENATE JOINT RESOLUTION 195

At the request of Mr. DECONCINI, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of Senate Joint Resolution 195, a joint resolution to designate August 1, 1994, as "Helsinki Human Rights Day."

SENATE RESOLUTION 215—RELATING TO THE TESTIMONY AND REPRESENTATION OF SENATE STAFF

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to.

S. RES. 215

Whereas, in the case of *Sonja I. Anderson v. Kaiser Engineers Hanford Co.*, No. 94-ERA-14, pending in the United States Department of Labor, counsel for the complainant has requested deposition testimony from Robert Alvarez, a former employee of the Senate on the staff of the Committee on Governmental Affairs;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Robert Alvarez is authorized to testify in the case of *Sonja I. Anderson v. Kaiser Engineers Hanford Co.*, and any related proceedings, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Robert Alvarez in connection with his testimony in *Sonja I. Anderson v. Kaiser Engineers Hanford Co.*

AMENDMENTS SUBMITTED

KING HOLIDAY AND SERVICES ACT

HELMS AMENDMENT NO. 1738

Mr. HELMS proposed an amendment to the bill (H.R. 1933) to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, extend such Commission, establish a National Service Day, to promote community service, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. 1. Notwithstanding any other provisions of this Act no federal funds shall be used for the purpose of funding the Martin Luther King Federal Holiday Commission.

HELMS AMENDMENT NO. 1739

Mr. HELMS proposed an amendment to the amendment No. 1738 proposed by him to the bill H.R. 1933, supra; as follows:

In the pending amendment, strike all after the word "SEC." and insert: "1. Notwithstanding any other provisions of this Act no federal funds shall be used for the purpose of funding the Martin Luther King Federal Holiday Commission. This section shall become effective 1 day after the date of enactment."

HELMS AMENDMENT NO. 1740

Mr. HELMS proposed an amendment to the bill H.R. 1933, supra; as follows:

On page 2, strike lines 20 through 24 and insert the following:

(3) in section 6—

(A) in subsection (a) by striking "maximum rate of pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "rate of pay for level IV of the Executive Schedule under section 5315"; and

(B) in subsection (b)(1) by adding the following at the end: "A person who has been detailed under the preceding sentence for as many as 365 days (continuously or intermittently) may not subsequently be detailed to the Commission."

HELMS AMENDMENT NO. 1741

Mr. HELMS proposed an amendment to the bill, H.R. 1933, supra; as follows:

On page 3, line 10, strike "and".

On page 3, line 12, strike the period and insert "; and".

On page 3, between lines 12 and 13 insert the following:

(7) by adding at the end the following new section:

"SEC. 10. None of the funds appropriated or donated to the Commission may be used for the purpose of purchasing first class air travel or first class hotel accommodations."

BROWN AMENDMENTS NOS. 1742-1743

Mr. HELMS (for Mr. BROWN) proposed two amendments to the bill H.R. 1933, supra; as follows:

AMENDMENT NO. 1742

On page 3, between lines 12 and 13, insert the following:

(7) by adding at the end the following:

"SEC. 10. ACCOUNTING PROCEDURES.

"The Commission shall follow a comprehensive basis of accounting, as defined by the Comptroller General in B-255473. The Commission shall establish an accounting system for review by the Comptroller General under section 3512 of title 31, United States Code. The Comptroller General is authorized to review and audit the Commission, its programs, activities, operations, and financial transactions. The Comptroller General, and his agents, shall have access to all records, files, documents, and papers of the Commission, as necessary, to accomplish such audits."

AMENDMENT No. 1743

On page 3, strike lines 8 through 10 and insert the following:

(5) by amending section 8 to read as follows:

"SEC. 8. COMMISSION REPORT.

"(a) IN GENERAL.—Not later than April 20 of each year, the Commission shall submit a report to the President and the Congress concerning its activities under this Act or under the National and Community Service Act of 1990.

"(b) ANALYSIS REQUIRED.—The Commission shall include in its annual report—

"(1) a detailed description of all activities undertaken by the Commission;

"(2) an analysis of the spending practices of the Commission indicating how much of the funds of the Commission are dedicated to salaries, travel expenses, and other overhead costs and how much are dedicated to the stated goals of the Commission; and

"(3) a detailed description of any grants made by the Corporation for National and Community Service with the consultation of the Commission."

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, and Forestry will hold a hearing to review USDA's zero tolerance meat inspection policy. The hearing will be held on Tuesday, May 24, 1994, at 9:30 a.m. in SR-332. Senator ROBERT KERREY will preside.

For further information, please contact Tim Galvin at 224-6551.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on research by entrepreneurs on childhood diseases. The hearing will be held on Thursday, May 26, 1994, at 10 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Ken Glueck, legislative assistant for Senator LIEBERMAN at 224-4041.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO PICOZZI AND THE HORN

• Mr. LIEBERMAN. Mr. President, I rise today to honor a radio station and its morning team of Picozzi and the Horn. The station, WHCN-FM in Hartford, CT, is observing 25 years of rock-n-roll broadcasting. And Michael Picozzi and Gary Lee Horn are celebrating 8 great years of entertaining thousands upon thousands of listeners throughout much of the Constitution State.

For two guys to last 8 years at one station is a testament to their loyalty to each other and to their listeners, who have rewarded them with high ratings in return. Picozzi and the Horn make waking up and driving to work a lot more fun than it normally is, and their unique style has become as much a part of the tradition of our State as, say, making submarines, selling insurance, or being stuck in rush hour traffic. And what better way to survive rush hour traffic than sharing the occasion with Picozzi and the Horn?

I have been honored to be a guest on the Picozzi and the Horn radio program many times, stemming back to my years as attorney general. My frequent appearances are probably more a result of the fact that I always bring fresh bagels to the studio, rather than any special talent on my part. The guys did persuade me to sing the Barney song on the air, which may not have done much for their ratings, but it did make me a hero to my daughter.

Mr. President, WHCN's promotional literature sums up Picozzi and the Horn in this way: "it's not easy to be the funniest and the most thought-provoking morning show in Hartford, but for 8 years, Picozzi and the Horn have been just that." It says that probably because Picozzi and the Horn wrote it, but that does not mean it is not true.

Congratulations to Picozzi and the Horn for helping Connecticut wake up on more than 2,000 mornings. And congratulations to WHCN for bringing these two guys, their other great deejays, and tremendous rock-n-roll into our lives 24 hours a day, 365 days a year, for 25 straight years.●

NEPAL

• Mr. DURENBERGER. Mr. President, a couple of weeks ago, the Minneapolis Star Tribune published a series of articles by Jim Klobuchar based on a recent trek through the Himalayas which he made accompanied by a number of other Minnesotans. Although he does not directly address the political situation, Jim's series does provide a glimpse of life in the shadow of Mount Everest.

The same week that the series appeared in the Star Tribune, the Prime

Minister of Nepal, Mr. G.P. Koirala was in Washington for medical care. I was fortunate enough to be able to spend some time with the Prime Minister one evening and discuss the situation in his country with him.

I visited Nepal a number of years ago, prior to the adoption of the present democratic Constitution. Largely because of that visit, I have maintained a strong interest in Nepal, and have followed developments there closely.

Since my visit in 1989, a number of significant changes have taken place in that country, which have led to a number of challenges for its people and its leadership.

In May 1991, Nepal had its first free and open election in 32 years. The Nepali Congress won 110 of 205 seats in the House of Representatives. The Communist Party of Nepal [UML] won 69 seats, with the remainder of the seats distributed among a number of parties.

The challenge that now faces Nepal is similar to that faced by several other nations in the region—the strengthening of democratic institutions and developing a sound economy.

This challenge is made especially difficult amid speculation that the ruling Nepali Congress party will be divided by internal conflicts. Should the present conflicts lead to a permanent division within the Nepali Congress, the opposition, dominated by the Communist Party of Nepal, would be in a position to overthrow the present Government, or at the least create an unstable situation.

This prospect aside, for a country with more than 20 languages and a number of ethnic groups, Nepal has been uncommonly successful at building a democracy with parties that are not based on language, ethnicity, or region.

Economically, the Government faces the difficult task of meeting the public's high expectations for development and prosperity. Although the Government has attempted to encourage foreign investment by eliminating licenses and registration requirements, and has been cutting public expenditures by reducing subsidies and privatizing state industries, Nepal remains one of the poorest and least developed countries in Asia.

Nepal is a small country in a remote region, and not very significant strategically, but it should not be ignored. The situation in Nepal is fragile, and I encouraged my colleagues to pay close attention to developments there.

Mr. President, the final part of Jim's series tells the story of a Tibetan who fled Chinese-ruled Tibet through the Himalayas for Nepal, drawing attention to the plight of Tibetan refugees. I have been pleased to see this matter raised by a higher level of public awareness by popular actor Richard Gere. I commend Mr. Gere for his com-

mitment to this issue and his efforts on behalf of the people of Tibet. The issue by itself is not very glamorous, and his advocacy is an important contribution.

Let me conclude by paying tribute to Jim Klobuchar, my favorite adventurer. He has indeed written a splendid chronicle of life and travel in the Himalayas. I also would like to mention the magnificent photography in the series by Stormi Greener, who makes pictures that come to life before your eyes. I wish it was possible to insert pictures in the RECORD so my colleagues could enjoy this incredible artistry.

Mr. President, I ask that the entire four-part series by Jim Klobuchar in the Star Tribune be printed in the RECORD immediately following my remarks, and I encourage my colleagues to read it fully.

The series follows:

[From the Minneapolis (MN) Star Tribune,
Apr. 25, 1994]

TO THE EDGE OF EVEREST
(By Jim Klobuchar)

A MIX OF EAST, WEST, RICH AND POOR AT THE
SUMMIT OF THE WORLD

In their casements of ice, the mountains give no testimony to the crosscurrents of human passions that have colored their snowy slopes with blood.

There is a murder at high altitude here. There is sacrifice, folly and bravery, and the sight of children laboring over marathon distances each day to learn. Much of the drama is invisible to the rest of the world.

Some of it we saw firsthand on our trek toward Mount Everest. It was an odd and unsettling mixture—the hunger of free air of Tibetan refugees crossing 18,000-foot passes by night juxtaposed against wealthy mountaineers' hunger for trophies.

The luminous summits and the accounts of dramatic mountain climbs blind the world to some of its rawest inequities of life and fortune, here in the highest of mountains.

The Himalayas are a mountain world idealized as a wellspring of ancient wisdom and peace. But here the human drives of ego and self-preservation collide. The yearning of children of poverty to create better lives for themselves collides with the pursuit of glory by western sportsmen. The yearning of Buddhist Tibetans to be reunited with the Dalai Lama collides with the strong-arm ideology and the rifles of their Chinese Communist captors.

Here is a boy wearing torn old tennis shoes, a wool cap and a trekker's abandoned pants and sweater. All of his clothes are smeared with the smoky grit of his chimneyless house. He is a Nepalese kid. Pasang, walking alone in the dark from his village of Thame to his school in the Himalayas.

He set out before the sun lit the mountains to their morning incandescence. He started early because he had 3½ hours to walk to reach his classroom in Khumjung at 12,000 feet.

Imagine a child walking 3½ hours to school, and being grateful.

The trail between Thame and Khumjung is steep and cluttered with rocks. It climbs 1,500 feet. Schoolchildren who walk it before dawn are not absorbed with notions about irony and the disparities of life. Getting there is enough. Entering the dirt schoolyard

through a break in its boulder fence, the kid from Thame had no knowledge of a scene 10 miles away in the village of Pheriche.

There, a Minnesota-trained voluntary physician, Dan O'Connell, and his partner worked to save the life of a rich Japanese doctor wearing expensive trekking gear. He collapsed from acute mountain sickness on another trail after rushing recklessly into the thin air, higher and higher, before his lungs had a chance to match his bravado.

At the same hour, western tourists paid hundreds of dollars to charter a helicopter from Kathmandu for a closer look at Mount Everest from the sun terrace and bar to the Everest View Hotel.

The hotel reflects a ghostly, selfmocking regalness. Dozens of tables are set immaculately in the dining room. The chairs are empty. There are no overnight guests. Except for random drop-ins for tea or Scotch, the hotel never worked out. The Japanese built it 15 years ago. It stands now as a misguided memorial to 20th century opulence, built in a place of Stone Age technology.

At the same hour, Tshing Futi carefully maneuvered two discs of dried yak dung and three small pieces of birch wood to keep an even flame under the omelettes she was cooking for some Canadians in Pheriche. The dung burned with small blue flare-ups that were unpromising but game.

Satisfied, Tshing Futi shuffled a few feet in her battered athletic shoes, one hand pouring milk for four of her guests and the other baling some fresh water out of a barrel left in Pheriche by a Yugoslavian Everest expedition of unknown vintage. Tshing Futi was in constant movement, slow but genuinely graceful, her dusty robes scuttling along the dirt floor.

She is the proprietor and sole employee of a shack of hardwood cots called the Ama Dablam Hotel. She got divorced years ago, shortly before her ex-husband, an expedition porter, was killed by an avalanche on Dhaulagiri.

In the hour when Tshing Futi worked her dung oven, an American enterpriser and professional mountaineer prepared Everest's base camp for the arrival of millionaire climbers who will spend boxcar sums to reach the summit.

And at the same hour and at about the same altitude of more than 18,000 feet, a few miles away, a Tibetan refugee names Sonam Zylsto scrambled through the snow of the Nangpa La pass between Tibet and Nepal to escape the Chinese Reds. His feet were numb, frostbitten. He almost died, as others did before him, from exposure of gunshot. Companions dragged him into the Edmund Hillary Hospital at Khunde, from where penniless patients can glimpse the vacant splendor of the Everest View Hotel.

Right about that hour, seven of us trudged the 500-year-old trails that we hoped would take us to the edge of Everest. There was nothing heroic about our agenda, nothing dangerous if you except the chance of being sandbagged by the always-lurking Kathmandu Krud.

No traveler, regardless of the whims of luck or the size of his bank balance, has to blush with guilt for being drawn to the idea of finding faraway places. Of these, Everest may be the most symbolic there is. You can argue about motives and elitism in climbing Everest, especially now when it's increasingly restricted to tycoons with muscles and manias.

Our goal was quieter. We numbered five women in their 40s, one man just turned 40 and another blessed with even riper maturity

(me). We thought a reasonable destination would be a close-up of Everest from a height called Kala Pattar at 18,500 feet. After that, we added Everest's base camp as a potential bonus.

Of the women, Chris Wolohan of Wayzata, the nursing director of Hennepin County Medical Center, had traveled in the Himalayas once before. It was a first for Barbara Schmitt of Minnetonka, the telecommunications director at Josten's Inc.; Susan Graca of Wayzata, an occupational nurse at Medtronic; Stormi Greener of Mahtomedi, the prominent Star Tribune photographer; Lee Perenic of suburban Detroit, and Tom Gray of south Minneapolis, computer consultant.

I was more or less responsible for gathering this uncommon group in Kathmandu in mid-March for the 16-day trek on the road to Everest. The visit to the Himalayas was my eighth. I never tire of it. It is a reunion with one of the world's extraordinary and mysterious places. It is not just the mountains reaching toward the stratosphere, while summits rising beyond their fluted precipices. It is the brown and familiar faces of the Sherpas and Nepalese who live beneath the heights. It is the circular power of their great religions, filled not only with gods and demons but also with some fundamental common sense and comfort for a people of smothering poverty.

It is myth and mantra, nature at its most glorious and cruelest. It is Ang Nima of Khunde, the Sherpa leader of our odyssey, and old friend. He met us at the Lukla airstrip at 9,000 feet, where our Twin Otter landed straight into the mountains after a 45-minute flight from Kathmandu, propellers spraying rock and dirt.

The airstrip at Lukla is not simply a construction marvel. It is a penance for genetic wanderlust. It is the world's only airstrip where the force of gravity is more important than brakes or flaps. It runs at a 15-degree grade up the mountain and if gravity won't stop the plane, a wall of boulders six feet high will.

Ang Nima was there with his clipped mustache, sucking on his shirt collar while he mullied his limited English for words of courtesy. Six of his Sherpa chums were with him, our housekeeper for the 75 miles that we planned to hike.

The Sherpas' chronic cheerfulness and high-altitude competence are now practically legend. Electricity is coming to their valleys—for which thank God—but they haven't changed much since they became famous. They aren't immune, though, to the risks of celebrity.

Ang Nima told about one of the Sherpas who climbed Everest five times. The more he climbed, the wider his fame grew in the Solo Khumbu valleys, where the 10,000 Sherpas live. He climbed and partied, got restless and confused, and sometimes longed for simpler times.

He also became an alcoholic. One day in the midst of his bewilderment, he leaped into the waters of the Imja Khola, a cascading river that rises from the glacial ice of the mountain that made him famous. He died in it.

There are no therapy support groups in the high Himalayas.

The Sherpas loaded our duffel on the back of the hybrid yak-oxen the locals call zupchoks, and we headed upward. In two days, we were walking in the child's land of Oz. We walked thousands of feet above floating eagles in their colors of cream and silver. We passed prayer wheels driven by river

water. We dipped and pitched on suspension bridges above the thundering streams. When we got to the village of Pheriche, we ran into two mild shocks: a sudden snowstorm and a resident in boots and parka, a woman from—of all places—Montevideo, Minn.

CLINIC ON THE RANGE—FROM THE PRAIRIE FLATLANDS TO DOCTORING AT THE TOP OF THE WORLD

PHERICHE, NEPAL.—They met in Montevideo, Minn., at what Dee O'Connell generously remembers as a warm-blooded wedding dance. Doc O'Connell, her husband, talks more creatively. He said it was fundamentally a brawl.

No such impulses have infected the Dan O'Connells in 34 years of a marriage that has transported them from the prairies of Minnesota and South Dakota to the blizzards of Alaska and now to the bouldered yak pastures of the high Himalayas.

We met her on our trek toward Everest. She was scrubbing the family laundry in the yard of the Himalaya Rescue Association clinic. The clinic is flatteringly named. It is a board shed with a dirt floor for a waiting room and an entry walk dappled with frozen yak turds.

The wind blew hard and cold from the mouth of the Khumbu glacier 2,000 feet above the scrub junipers and tundra of the Pheriche valley at 14,000 feet. There's no corner laundromat in Pheriche. Dee O'Connell made suds with a washboard and a bucket. Her insulated boots overwhelmed her ankles and a hood kept her hair from flying south.

This is fashionable dress for Pheriche.

Some time before, a member of a Sherpa family from miles away appeared at the O'Connell home and said one of their women was dying. She had given birth, but something went wrong with the placenta. O'Connell put his medical equipment in a backpack and went to the scene. "She was lying in a mound of straw. People were standing around. The baby was healthy and crying and it seemed in tune with a mooing cow and the whole picture was right out of the birth in a manger. I did what I had to do, the woman snapped back and we all ate and sang when it was over."

Doctoring in the Himalayas. Dee, the former Delores Nordby of Montevideo, who had envisioned the orderly life of a secretary and then maybe a nice secure marriage with kids and a farmyard and a drive into Dayton once a month for a buying binge—all of this in cornbelt moderation.

And then she and Dan O'Connell found each other. O'Connell was going to be a prairie doctor in a town like Madison, S.D., and it was no particular coincidence that he grew up in Madison, S.D.

"One day during my medical studies at Creighton University a man came down from the Red Lake Indian Reservation in Minnesota," he said. "He talked about the meager health care there. It turned something in my head."

What turned, out and off, was his picture of a comfortable rural practice as the doctor-social lion of the farm fields, spruced up with membership in the country club. Instead, the O'Connells went north after his internship at the then-Ancher Hospital in St. Paul, now the St. Paul-Ramsey Medical Center.

North was Alaska. It was not only Alaska, it was end-of-the-world, boondocks Alaska, where medicine was often a wish more than a health service. O'Connell joined the Indian Health Services of the U.S. Public Health Service and abandoned all illusions of the country club perk.

"Neither one of us should have been surprised," the doctor said. "The more we learned about each other, the more we realized we were both what you'd call contrarians."

He flew hundreds of miles to treat an eskimo with a collapsed lung. He was a doctor of the Bering Sea Coast. He worked places like Bethel and Kotzebue. Sometimes the propeller on his small chartered plane stopped spinning above wilderness where no one lived but wolves and caribou.

"It wasn't very risky," he said. "The pilots there, they know how to drive."

After 25 years, with their three children grown, the O'Connells retired to help one of their sons run a fishing business in Dillingham, Alaska. But two years ago somebody said, "They need volunteer doctors in some godforsaken place in the middle of the Himalayas."

Having long ago adopted godforsaken places, the O'Connells moved up in society, about 14,000 feet to be exact. They also moved backward in time, about 200 years worth. It astounded none of their friends or colleagues.

The man is a healer. He took the medical school oath seriously. For two months this spring, he and another Alaskan, Tom Dietz, are the doctors on call in the plank-and-tin clinic on the road to Everest. A trekker who drops in with pneumonia may have to pay \$3 for the office call. A Sherpa porter pays a few cents. None of it goes to O'Connell or Dietz. To keep the rescue association going, they charm and beguile the passing trekkers, convincing them that heaven will remember them for buying a clinic T-shirt.

"We didn't come here to make money personally," O'Connell said. "What for? We get our recreation here for nothing and we get free entertainment from the Sherpas. They start singing when they get serious about drinking change (the native brew) at 2 o'clock in the morning. Dee and I just happen to go another way from most folks. We thought yesterday, for example, that we might want to take a walk in the mountains." They did. The hike went up more than a half-mile vertically to two herdsman's sheds at 18,000 feet above Pheriche.

Most of their neighbors are yaks. But the life invigorates Dee O'Connell, the onetime farm girl from Montevideo. Never mind the absence of a heating stove in the house. To keep warm they wear three layers of whatever works. Life in the Himalayas also stirs Dee's contemplative juices.

"The solitude is no drag for me," she said. "The life away from machines appeals to me. TV, cars and electronic gadgets are great. But you can get hung up on them. There are things to think about. I like being alone with my thoughts here in these big mountains."

She tends toward reserve and a relaxed comfort within herself. Her husband is animated, lanky and tidily mustached. For their two months' stewardship, he and Dietz will deal primarily with the victims of altitude sickness here at a crossroads of altitude zones, where the impetuous hikers sometimes outrun their body's acclimating powers. When that happens, they can be saved only by going down, being carried down or by the Gamov bag in the rescue clinic shack.

The bag is simple, ingenious and generally wonderful. It was developed by a Russian scientist who moved to Colorado. The Japanese trekking doctor who was dragged in comatose a few days ago was zipped into the orange canvas bag a minute after he arrived. It was pumped up with compressed air in an op-

eration no different than inflating a Zodiac sea raft.

Within a few minutes the doctors had brought the air density in the bag down to the air levels of 7,000 feet. It was the same as descending 7,000 feet in a couple of minutes. Inside of 15 minutes, the Japanese trekker regained consciousness. Inside of three hours he was wobbling down the trail toward Pengboche, less bold but at least vertical.

In a land swarming with designated holy spirits, people like the O'Connells, Dietz, and the St. Paul Dentistry team of Doug and Phyllis Ostergren (who spend a year in the dental clinic at Namche Bazar) get some kind of honorary status in the lodges of the local saints. All of them deny any special nobility. But they have it, nonetheless. Their skills are priceless in the truest sense, since they put no price on them. Like Ed Hillary's, their prints of life-saving and service are all over the Himalayas.

In another fashion, so were ours. In five days we had gained more than a vertical mile and a half and camped the fifth night on the windcobbled moonscape of Lobuche a few miles from Everest. Ahead of us was one of the loveliest mountains in the Himalayas, the white cone of Pumori.

We slept in a great amphitheater of snow mountains. The sounds of the Himalayan trek issue from an odd chorale of squawking ravens, the groaning wind, caroling Sherpas and the herders reciting their morning mantras in dozens of repetitions of "*ohm mani padme hum*," meaning blessings on the jewel that lies in the lotus. It is their rosary. It offers credits in the next life. It is hypnotic and it seems to invoke the soul of the Himalayas.

The occasional burp in this harmony of the mountains was the repetitive zipping and unzipping of our tent doors at the usual awkward hours in the night. But by now we had established some sort of character to our small caravan. We were mostly healthy and reasonably disciplined.

No sooner had that been established when Susan Graca, the occupational nurse, had to leave us and hike down the mountain with a Sherpa to meet work schedules back home. We missed her. She was the Sam McGee of our menage. Sam was the Robert Service creature who was phobic about the Alaska cold. He was so fearful of it that he asked to be cremated after he died. Susan never went that far, but she wasn't quite ready for the Himalayan chill. She fought back doggedly, wearing wool mittens on her feet to guard against frostbite, although we slept in the warmest sleeping bags known to man.

Tom Gray turned out to be a giver of far-out knowledge. Gray is a self-confessed computer geek, a programmer and interfacier, a man of his generation. There was something other-dimensional about this man. It may not have been an accident that he passed the dread landmark of 40 twice in the same day. We crossed the International Dateline on a plane in the middle of his birthday. Gray has been a geologist, restaurant operator, motorcyclist, enlightened housing landlord and now computer whiz. He gave us the names of the rocks we collected on the trail.

Most of them, he said, were valueless but gneiss.

We were unaware, at that very moment, of Sonam's life-and-death flight a few miles away.

TIBETAN REFUGEES SEEK A HIGHER TRUTH ON EVEREST

LOBUCHE, NEPAL.—He waited until darkness before he began his flight toward a pass

in the Himalayas nearly 4 miles above the sea. The night was his only ally. It made him less a target for Chinese Communist bullets.

But he remembered the three Buddhist nuns.

They were shot and killed by a border patrol shortly after nightfall not long ago, attempting to escape through the snow and cold of the Nangpa La pass separating Chinese-ruled Tibet from Nepal.

He was a Buddhist and Tibetan, Sonam Zylsto. He needed no other reason to escape. His goal was India, where the Dalai Lama lives. The Dalai Lama is the Buddhists' spiritual refuge, the man who in their belief is the reincarnated presence of their prophets and gods.

The Communists came and demolished their monasteries, killed resisters by the thousands and began resettling Tibet with their own nationals. The Dalai Lama left to ask the world to reason with the Chinese for the preservation of his people and their traditions.

Zylsto slogged through waist-high snow in his shredded Chinese tennis shoes. He was exposed under a nearly full moon and losing sensation in his feet. In his shivering desperation, Sonam Zylsto defined the world's response to the Dalai Lama's appeal.

He and his companions reached the summit of the pass at an altitude of about 18,000 feet after two days of struggle through polar winds, conditions that would demand full equipment of a modern mountaineer. They wore only light clothes, no gloves, no boots.

They waited again until nightfall to dodge the perfunctory watch Nepalese soldiers keep on the south side of the pass. From there they walked miles down a glacial valley into the Nepalese village of Thame. His friends dragged Zylsto into the Hillary-Lions-Variety Club clinic in the village of Khunde.

The next day, Dr. Elizabeth Harding, a volunteer physician from Auckland, New Zealand, removed his four frozen toes.

He was limping around the next day, grateful for surviving the high altitude horror of Nangpa La. He was grateful for the skilled hands that had saved him from gangrene and death.

He was also mystified about the future. He didn't talk much politics. But to the Western traveler passing through Khunde on his way to Mount Everest, the young Buddhist's frail smile cast the hard light of shame on those American voices who rail about American government demands for more humanity from the Chinese Reds.

Never mind the humanity, these voices counsel. Watch out for American business interests. Don't unhinge the Chinese murderers in Tibet. The Chinese command a big market for our stuff.

Profit and greed are more important than Sonam Zylsto, freezing his feet at night at 18,000 feet to revive the broken threads of his life.

That might be explainable to boards of directors. It is not as easy to explain to stateless Tibetans who cross the Nangpa La at the rate of more than 2,000 a year, and cross in bigger numbers over other routes.

But they're not flooded with sympathy in Nepal, either. A European service worker explained why.

"Nobody wants them. Nepal is one of the poorest countries in the world. All it's got to give the world is the Himalayas. It has some established Tibetan refugee camps, but the Sherpas themselves (who are of Tibetan origin) haven't got anything for the refugees and they don't especially welcome their peddler shrewdness in their valleys."

The Sherpas live almost exclusively in the Everest district and represent only a sliver of Nepal's population of nearly 20 million. They migrated from Tibet hundreds of years ago, threatened by the Mongols. Much of their livelihood is tied in with Western trekking and climbing expeditions and they tend to maintain a living standard higher than the rest of the Nepalese.

"The Nepalese government doesn't want to irritate the monster to the north, China," the European said. "Basically, there's nothing to prevent the Chinese from walking in and taking over Nepal. It doesn't have a whole lot of friends internationally, and it doesn't get any special hugs and kisses from the USA."

"When the refugees come to Kathmandu, the capital, the police would just as soon shoot them as look at them. The Kathmandu police don't get much in wages. They make it by taking bribes from people they arrest. If you come over the Nangpa La in rags, the chances are you're not going to have much cash to pay off the police."

So some of the refugees are pointed back to the north. But they scatter and return to the Nepalese camps and to relatives who came over before them. And somehow most of them find their way to India.

And a few find their way to Minnesota. "The USA," Zylsto said. "That would be a dream."

It would also be a miracle for most of them, although such miracles are no longer walled in by the ice and granite of the world's highest mountains. The mystique of the Himalayas—the sagas of the Abominable Snowmen, the myth of Shangri-La—usually yield to the reality of a cold gale from the north, and we began getting it when we headed for the last civilized clump of shacks and sod houses before Everest, Gorak Shep.

Gorak Shep sounds like a squawking crow with laryngitis. In Sherpa, it translates into "Cemetery of the Ravens." It isn't much wonder. The elevation is more than 17,000 feet. To reach it, you walk a glacial moraine for hours, loose gravel and boulders piled into long undulating ridges hundreds of feet high. But ahead of us was the dazzling ice wall of the 25,000-foot Nuptse, a mountain that is part of the Everest massif. Everest conceals itself for much of the route, blanketed out by some of its huge satellites in the foreground.

A burst of sunlight forced us to stand and stare. We were immersed in a colossal architecture of ice and rock and snow surging miles above us. The most colossal of them all, Everest, was still to make an appearance behind Nuptse and the others. We were slogging toward an 18,500 foot knoll called Kala Pattar, from where the sky would open and Everest would erupt in view.

By now, we had evolved some form of rough cadence of the trail and social exchange. Usually a trekking group needs a catalyst to keep it congenial within limits. As the point man, not totally drenched with social graces, I usually leave that to somebody else. Chris Wolohan was the one on the road to Everest.

Chris is the nursing administrator at Hennepin County Medical Center. She hikes with two walking sticks in the mountains because of a tumor condition that required knee surgery when she was 7. She is one of those people compatible with almost anybody who chooses to be compatible and forgiving to those who choose to be trail prima donnas or are klutzes by nature. We had only minimal representation in both classes.

Sometimes a trekking party can be so chewed up by individualism and competing

agendas that its opposing clans will cross the street in Kathmandu when the trip is over rather than meet each other one more time. We had no such afflictions. There was one personality conflict that arrived late enough to be unimportant. Otherwise, Chris' relaxed courtesies—not the least of which were her relaxed silences—kept the social tone civilized and breezy. This is not bad for a woman who was hacking around with bronchitis for half the trip. It was also not bad for a woman who opened her shower door in Namche Bazar and found herself invaded by a cow.

A shower in the Himalayas is fundamentally an act of faith. In some places you actually get water. They try hard, the village innkeepers. They will take a few boards, build a shower booth or shed about the size of an upright casket and pour a bucket of warm water into a sprinkler in the roof.

In Pheriche, Tom Gray showered standing on a slab of natural ice. I took a shower in the same town in the middle of a snowstorm, half of which got into the shower stall.

All that while I was being taunted by a yak outside. Chris' scene in Namche amounted to a barnyard insurrection. The cow walked right into a little utility room where she hung her clothes. About the time she was retrieving them, the cow stuck out a long tongue.

Chivalry prevents me from telling you where the cow made contact.

THE HEIGHT OF MOUNT EVEREST CAN PRODUCE A PROFOUND HIGH

GORAK SHEP, NEPAL.—High altitude climbers can explain the phenomenon of Barbara Schmitt of Minnetonka.

She extended her hand to offer me a bite of chocolate at 18,400 feet in the Himalayas. I reached back and found nothing but an empty glove.

This is a woman who normally fizzes with spirit and whim but is no trickster. She actually believed she was holding a Snickers candy bar in her hand. She was also groggy from fatigue and experiencing a moment of slap-happy delirium. It wasn't medically dangerous. She needed rest, an early descent and one long look upward toward the stratosphere.

And there was the mountain. Everest, expanded and elevated to a gigantic scale that defied instant absorption. Across the frozen cascade of the Khumbu glacier icefall, its black pyramid and mile-long plume of cloud streaming from the summit, Everest filled the sky with a massive symmetry. It wasn't elegant. It didn't invite reveries. It looked enigmatic and prone to malice. It was Everest, so big at 29,028 feet it seemed to belong to another dominion of nature.

It's a view of the world's highest mountain that is seen only by Everest's highest climbers and by those scattered ramblers who push themselves to the top of a Himalayan ridge called Kala Pattar above the glacial wasteland of Gorak Shep. Yet for some in our small, hard-breathing procession, it was a prelude to something more strenuous. With luck, we could hike tomorrow into Everest's base camp at the mouth of the icefall.

Part of the allure of this was the excitement of the mountain's nearness, the sensation of walking in the invisible footsteps of a Hillary or Tenzing. The idea of thrusting mind and body into a guarded world seldom experienced by others is another part of it. And so is the sound and sight of a Himalayan avalanche at first hand.

Barbara Schmitt's illusion of a candy bar in her hand was a mild form of thin-air hal-

lucination. The avalanche wasn't. Barbara's chocolate was the invention of a lethargic brain groping for reality in an alien atmosphere. How alien? As a practical matter, Barbara hadn't been much higher than the top of the IDS Center in Minneapolis.

So now, when it unfolded for her nearly 4 miles above sea level and the symptoms of torpor crept into her body, the high world was transformed into something dreamy and uncanny. In that surreal atmosphere, a person can imagine a conversation with phantom companions. Whole sentences rather than participles dangle. Years ago, I handed a canteen of water to a climbing friend, Rod Wilson, when he asked. It would have been an awkward exchange. Wilson wasn't on the mountain.

But the avalanche wasn't fabricated by a spent body and mushy mind. It announced itself with a crashing sound overhead, like lightning hitting a power pole. It came the day after our hike to Kala Pattar, when we were in the middle of the jumbled moraine slabs of the Khumbu glacier on the way to base camp. Stormi Greener, for one, didn't find it disagreeable. Greener is a Star Tribune photographer who has been around the world three or four times shooting boat people, Kurd tribesmen and a few thousand other intriguing faces. She is one of your photographer zealots, unapologetic about it and essentially unstoppable. For a picture, she will fight cops and boa constrictors. Wearing the credentials of neither of these, I still spent a fair amount of time pulling her off the parapets of swaying suspension bridges.

"What's that sound like a train wreck?" she said.

I said it was an avalanche on Nuptse.

"Will we get killed?"

Probably not, I said.

It poured down the Nuptse face, millions of tons of snow, what the European alpinists long ago called "the white death." Avalanches in the Alps and Rockies are impressive. In the Himalayas, they're staggering.

For thousands of feet the snow fell and the air shook. The sound receded as the slide played out. Now the characteristic white cloud formed at the base of the avalanche, spreading and rising like an atomic mushroom.

The cloud advanced swiftly across the glacier where we stood. In a moment the first ice chips hit our faces. We turned our backs to the advancing wave. For 30 seconds we stood in a gate of crystalline needles, stinging us. Then it was over.

"God," Greener said, "does it get better than this?"

I said it might not necessarily get better but it could get a lot more hairy. The road to Everest's base camp, though, was not. It was ugly here and electrifying there. For a half-hour, we walked past pools of melting ice, lade under the midday sun. The landscape changed. We worked our way beneath colonies of minarets and towers, a Stonehenge of ice.

And for the half hour after that we slipped around in loose and lousy scree and tried to dodge the leavings of yak trains. In this crazily mixed environment we reached the glacial rubble where for more than 40 years Everest mountaineers have prepared for their climbs.

Tents and quonset huts of expeditions from New Zealand, Japan, and the United States were slung in small settlements across the dirty esplanade. We were relieved not to find the widely advertised garbage pile of discarded oxygen tanks and tuna fish tins.

We did find Peter Athans of Boulder, Colo., the climbing leader of Alpine Ascents International. Today, if you're going to climb Everest, your best chance is to own a national discount house or a stock brokerage.

The \$50,000 it costs to buy a permit from the Nepalese government is still paid by some of the so-called amateur expeditions. But a surer way to get on the mountain is to be rich enough to afford the big checks charged by the agencies that now provide all services—guides, organization, food and equipment—to people who have it all but Everest.

Athans was tall and browned by sun. His easy talk and manner suggested the controlled confidence of a man who has climbed Everest three times.

"We'll have seven people," he said. "Early May is the best weather for Everest climbing, going for the top. If they've climbed with us before, the cost is \$50,000 per person on Everest. For others, it's \$65,000."

Maybe Michael Jordan should apply. If you've nursed the distant hope of climbing Everest, you might resent millionaires being able to do it where the average climber cannot. But why build a grudge? Everybody has obsessions, rich guys as well as average climbers. I once imagined a climb on Everest. I was serious. It was a goal, although loosely held and nothing compulsive. So now evidently it's gone. Why mourn? There've been other mountains. And the icefall, on this day, was mesmerizing. So was the prayer chant of the Sherpas.

It was a good day to roam the Himalayas. Pemba Tschering, the cook, would be in world class form tonight, making Himalayan pizza with yak cheese, tomatoes and Spam. A few days later I sat on a large boulder 40 feet above the trail at our streamside campsite at Phortse. It was where I go acquainted with a kid three years ago. We didn't speak the same language but we both knew the meaning of Namaste: "I salute the God who dwells within you." It's the most beautiful word I know.

The sun was down except for its waning strokes, which splashed amber on the ice cliffs and summit of Thamserku. It occurred to me that I didn't really come to the Himalayas again for the icefall. I came for a moment like this. The earth was still except for the tumbling of the Dudh Khosi beneath me. The rhododendrons were about to blossom. The river and the forest did not say "exert," or "look on in wonder." They said peace.

A few minutes later I opened my eyes and saw a boy walking down the path. He was older than the kid three years ago. But he held his hands to his face, fingertips touching, and he said "Namaste."

It was the same boy. I'm sure of it. •

THE NATURE CONSERVANCY

• Mr. SIMON. Mr. President, it is my pleasure to announce the appointment of Bruce W. Boyd as the Illinois State director of the Nature Conservancy.

The Illinois Chapter of the Nature Conservancy has protected over 57,000 acres of public and privately held natural area since 1957, and Mr. Boyd's creativity and leadership makes him an ideal choice for this important position.

Mr. Boyd's active participation in volunteer activities has been a prominent feature of his career. He served as

director of the Uptown People's Law Center in Chicago, and was also on the board of governors of Opportunity International, which loaned \$8.2 million in 1993 to entrepreneurs in the developing world.

I comment the dedication and public service commitment of people such as Bruce Boyd. His efforts to make a better world are both an inspiration and an example of the wonderful things that can be accomplished by people getting involved. I congratulate Mr. Boyd on his new position, and I look forward to a bright future for Nature Conservancy in Illinois. •

TRIBUTE TO WILLIAM T. SCHMIDT

• Mr. LUGAR. Mr. President, I rise today to pay tribute to William T. Schmidt of South Bend, IN, for his outstanding service to public safety. I would like to share with my colleagues the story of a man dedicated to the well-being of his country and his community.

Mr. Schmidt served bravely in World War II. In 1941, at the age of 17, he was aboard the U.S.S. *West Virginia* when it was struck by three aerial bombs and seven torpedoes while docked in Pearl Harbor. Although the ship sank within 7 minutes, he survived and in his role as pharmacist mate was able to help out many after the attack. Mr. Schmidt again served his country in 1950 during the Korean conflict as a member of the air-sea rescue unit.

In 1953 Mr. Schmidt returned to South Bend, IN, and began his 22-year career with the South Bend Fire Department. For the last 11 years of that career he served as a fire instructor in the Fire Training Bureau. It was during that time that Bill helped author the crash fire rescue training manual which is still used today by the International Fire Service Training Association [IFSTA]. Also, the Federal Aviation Administration sent Bill to several landing facilities in Hawaii and the South Pacific to help develop air-crash safety programs.

After retiring from the South Bend Fire Department, Mr. Schmidt moved to Wisconsin to teach fire sciences programs at the Northeast Wisconsin Technical Institute. He also served as fire chief for the Green Bay, WI, Austin-Straubel Air Field. However, Mr. Schmidt was again drawn to Indiana. He returned in 1986 to join the Michiana Regional Airport staff as a consultant and crash fire rescue instructor. Twice a year Bill has put on his silver fire suit and walked through aviation fuel fires at the World Class Aircraft Fire Rescue Schools in order to teach crash-fire rescue techniques. In addition, Bill worked on airport and St. Joseph County disaster plans and serves as a member of the St. Joseph County Local Emergency Planning Committee [LEPC].

Mr. Schmidt exemplifies the word service. He has committed his life to education and the saving of lives. Please join me in honoring a man dedicated to his country and his community. •

THE 39TH ANNUAL DETAILED FINANCIAL REPORT OF SENATOR PAUL SIMON

• Mr. SIMON. Mr. President, it has been my practice in each of the 39 years I have spent in public life to volunteer a detailed accounting of my finances.

I ask that my financial report for 1992 be printed in the CONGRESSIONAL RECORD.

The financial report and related announcement follow:

ANNOUNCEMENT

For the 39th consecutive year that he has held public office, U.S. Senator Paul Simon, D-Ill., has released a detailed description of his income, assets and liabilities.

Simon has been making the voluntary annual statements longer than any other national officeholder, according to his office. Simon set his policy when he left the newspaper publishing business he had established to enter public service as a state representative in 1955. He followed the practice during his eight years in the Illinois House of Representatives, six years in the Illinois Senate, four years as lieutenant governor, 10 years in the U.S. House of Representatives and now nine years in the U.S. Senate. The listing predates disclosure requirements of state and federal law and continues to exceed those requirements. Senate rules today require only the listing of income in broad brackets. Simon's practice also has set the standard for many officeholders in Illinois.

Simon also continues to exceed Senate requirements by listing detailed income for his wife, Jeanne.

The Illinois senator lists 1993 income for himself and Jeanne Simon totaling \$187,894.30. The figure includes his Senate salary and reimbursements to Paul and Jeanne Simon for travel and other expenses.

The Simons had assets of \$488,589.70 and liabilities of \$135,184.91 for a net worth of \$353,404.79. Earlier disclosures have shown Simon to be one of the least wealthy members of the Senate.

Detailed 1993 income statement of Paul and Jeanne Simon.

Attachment follows:

Income statement: Paul and Jeanne Simon—1993

General Income (Paul Simon):	
Salary, U.S. Senate	\$133,600.00
State of Illinois, General Assembly System	21,002.52
Book Royalties	11,460.56
U.S. Senate, Expense Reimbursement	7,888.16
Paul Simon Official Office Account, Expense Reimbursement	181.66
Simon for Senate, Expense Reimbursement	422.41
NBC Travel Reimbursement	10.00
Blue Cross/Blue Shield, Insurance Reimbursement	397.40
Barnes and Noble Bookstores, Inc., Refund	2.98

Equicor, Insurance Reimbursement	168.87
Southern Illinois Memorial Hospital, Refund	25.10
Carbondale Clinic, Refund	16.50
Resort Realty, Deposit Refund	144.70
General Income (Jeanne Simon):	
Salary, Emeritus Foundation	2,000.00
Social Security, (Entirely donated to charitable causes)	5,715.20
Distribution from IRA	800.00
Social Security, Deposit Refund	5.38
Interest Income:	
U.S. Senate Federal Credit Union	160.09
General American Life	229.02
Polish National Alliance of U.S.A.	44.20
South Shore Bank of Chicago	31.97
Dividends:	
Adams Express	576.23
Credit Union One51
Quaker Oats	57.60
Scott Paper Co	6.40
Ralston Purina	30.69
Ralston Purina Continental61
Dreyfus Growth & Income Fund	192.00
Dreyfus Municipal Bond Fund	2,287.82
Franklin Money Fund	125.86
Wal-Mart Stores	11.88
Pacific Gas & Electric	100.32
Pax World Fund	102.49
Texas Instruments	8.72
Fisher-Price	1.60
General Cinema Corp98
Harcourt General, Inc.	3.01
Scudder Service Corp	77.83
Smith Barney Fund	3.03

Total income

187,894.30

Dreyfus Municipal Bond Fund purchased on 10/30/92 for \$14,148. Sold 590 shares for \$7,710 on 8/31/93. Sold 500 shares for \$6,749 on 10/20/93. Net gain—\$311.00.

Quaker Oats purchased on 2/5/88 for \$1,578. Sold 40 shares for \$2,741 on 8/23/93. Net gain—\$1,163.

Ralston-Purina Continental and Ralston Purina purchased on 1/67 and various dates for \$523. Sold 1.7 of RPC shares and 32.0942 shares of RP for \$1,409 on 10/10/93. Net gain—\$886.

Paul and Jeanne Simon: Net worth statement—December 31, 1993

General Assets:	
First Bank of Carbondale, Checking Account	\$110.93
Credit Union, Rantoul	26.69
U.S. Senate Federal Credit Union, Checking Account	3,915.51
U.S. Senate Federal Credit Union, Savings Account	145.18
South Shore Bank of Chicago, Savings Account	1,052.93
Loan, Senator Paul Simon Official Office Account	100.00
U.S. Savings Bonds	1,838.00
Deposit, Harbour Square Apartments	50.00
General American Life Insurance, Cash Value and Deposit	9,540.69
Polish National Alliance Insurance, Cash Value and Deposit	2,474.15
Congressional Retirement System, Cash Value	81,174.01
Thrift Savings Plan	23,488.13
11.8 Acres & Home, Makanda, IL, (Appraised 1987 at \$204,000)—Plus Improvements	235,350.00

Furniture and Presidential Autograph Collection	18,000.00
1991 Chevrolet	10,000.00
1983 Ford Mustang	800.00
Stock and Bond Holdings with Number of Shares:	
Cash and Smith Barney Shearson Daily Dividend Fund	2,596.70
Adams Express Co., Maryland 413 Shares	7,382.38
Bethlehem Steel, 5 Shares	101.88
Dreyfus Municipal Bond Fund, 1,650 Shares	22,044.00
Dreyfus Growth & Income, 238,774 Shares	4,068.71
Franklin Fund, 627,455 Shares ..	627.46
Harcourt General, Inc. 7 Shares	253.75
Intergroup, Inc. 25 Shares	625.00
Jet-Lite, 120 (Approximate)	300.00
Lands End Inc., 22 Shares	1,012.00
Liberte Inves., 100 Shares	162.50
Mattel, Inc., 20 Shares	552.50
Pacific Gas & Electric, 68 Shares	2,388.50
Pax World Fund, 179,815 Shares	2,432.87
Quaker Oats Co., 4 Shares	284.00
Rohr Industries, Inc., 6 Shares	66.75
Scott Paper Co., 8 Shares	329.00
Scudder Growth & Income Fund, 62,776 Shares	1,082.26
Texas Instruments, 12 Shares ..	762.00
United M&M, Inc. 8 Shares	1.75
Wal-Mart Stores, Inc., New 96 Shares	2,400.00

IRA—Paul:

Smith Barney Shearson Government & Agencies Fund	1,221.46
Adams Express Co. Maryland, 634	11,332.75
Lands End, 17	782.00
Mattel Inc. De., 71	961.38
Pacific Enterprises, 56	1,330.00
Pacific Gas & Electric, 40	1,405.00
Pepsico Inc.—North Carolina, 32	1,308.00
Price/Costco Inc., 51	981.75
Quaker Oats Co., 142	10,082.00
Sara Lee Corp., 20	500.00
Servicemaster Ltd Partnership Pub Partnership Shs., 27	739.13
Southwest Water Co. De., 86	838.50
Southwestern Energy Co., 48	864.00
Tootsie Roll Industries, 22	1,562.00
Total	34,907.97

IRA—Jeanne:

Smith Barney Shearson Government & Agencies Fund	1,508.75
Adams Express Co. Maryland, 616	11,011.00
Pacific Gas & Electric, 40	1,405.00
Pepsico Inc. North Carolina, 42	1,716.75
Sara Lee Corp., 20	500.00
Total	16,141.50
Total assets:	488,589.70
Liabilities:	
Polish National Insurance, Loan	1,484.39
General American Insurance, Loan	3,021.15
LaSalle Talman Home Mortgage Corp	130,679.37
Total liabilities	135,184.91
Total assets	488,589.70
Total liabilities	135,184.91
Net worth	353,404.79

Gifts, received of more than \$25.00 value, outside immediate family.*

Book from American Assembly	\$25.00
Two Baltimore Oriole tickets from Baltimore Orioles	30.00
Overnight at Arlie House from Berkley & Elinor Bedell (Value under)	250.00
Book on great Chicago architecture from John Bryan (Value under) ...	250.00
Book, Quilt Paths Across Illinois from Champaign County Forest Preserve District	34.95
Fruit Basket from Larry Goodman (Value under)	250.00
Grocery samples from Grocery Manufacturers of America (Value under)	250.00
Wager won from Carl Levin	5.00
Two books from Library of America	70.00
Bow ties from Mary Jane & Tom Masters (Value under)	250.00
Children's home videos from PBS (Value under)	250.00
Coffeemaker from Philip Morris RJR Nabisco (Value under)	250.00
Book, "Turmoil and Triumph" from Nick Vellotes	30.00
Chinese vase from Roy Wu (Value under)	250.00
Webster Dictionary from Merriam Webster Co. (Value under)	250.00

The law requires disclosure only of gifts of \$250.00 and over. Paul Simon's statement includes all non-family gifts of more than \$25.00, whatever the source.

MUNICIPAL SOLID WASTE FLOW CONTROL ACT OF 1994

• Mr. DURENBERGER. Mr. President, I rise today to urge my colleagues to join Senator HEFLIN and me in cosponsoring S. 1634, the Municipal Solid Waste Flow Control Act of 1994. For 2 years now, the preservation of flow control has been a primary objective of our Nation's local governments. And now, in light of last Monday's Supreme Court ruling in the Carbone case, it is critical that we in Congress make it ours.

For decades, flow control ordinances have given local governments authority to decide how and where they will dispose of their waste. These ordinances have enabled our cities, counties, towns, and townships to finance and implement waste management facilities best equipped to preserve the environment and protect the public health. But, according to the Supreme Court, unless Congress says otherwise, this important authority of local government must now come to an end.

Minnesota alone can offer 22 reasons why Congress must say otherwise. That is because 22 of the counties in my home State stand to lose not only the substantial environmental and health benefits gained from flow control, but the enormous financial investment they made in it as well.

Under flow control, local governments generally build their own designated waste facility and finance the construction through revenue bonds, or

they contract with a private waste management company. In either event, these designated facilities invariably meet a higher standard than typical landfills and must usually charge haulers a higher tipping fee. Without local authority to direct waste to these designated facilities, haulers will instead move that waste to the nearest landfill boasting low tipping fees and safety standards to match. Consequently, by denying local residents control over their waste once it hits the curb, we deny them important environmental and public health benefits, leave them knee-deep in debt, and wide open to potential Superfund liability.

Flow control represents a lot of effort and an enormous financial commitment on the part of people from all over the country who invested in an infrastructure to better protect their communities and the people who live in them. And, while I cannot possibly quantify their human efforts, I can illustrate their investment. Today, the outstanding debt owed by local governments on waste management facilities throughout the country is estimated at \$10 billion. In Minnesota alone, the debt stands at \$325.4 million. Virginia and California each have a debt totaling nearly \$500 million. Connecticut, \$600 million. And, New Jersey and Florida, \$1.5 billion and \$3.2 billion, respectively. By allowing the Carbone decision to stand, Congress will commit a waste unlike anything these local governments have ever seen—a waste of effort and hard-earned tax dollars.

Mr. President, in her concurring opinion in Carbone, Justice O'Connor—who was once a State legislator and champion of local governments—seemingly went out of her way to state:

It is within Congress' power to authorize local imposition of flow control. Should Congress revisit this area, and enact legislation providing a clear indication that it intends States and localities to implement flow control, we will, of course, defer to that *** judgement.

In 1992, I invited Congress to approve flow control. Now 2 years later, Justice O'Connor appears to be extending the same invitation. Congress would do well to accept.*

CALIFORNIA AIR RESOURCES BOARD'S LOW-EMISSION VEHICLE AND CLEAN FUEL REGULATIONS

• Mrs. BOXER. Mr. President, I want to report to the Senate today some very good news for all of us who look forward to having "clean cars" on our Nation's roads as soon as possible. On Friday, May 13, the California Air Resources Board [CARB] decided to stick with the low-emission vehicle and clean fuel regulations it established in 1990. These regulations mandate that 2 percent of all motor vehicles sold in California in 1998—about 25,000 cars—

must be zero emission. In 2001, the requirement increases to 5 percent, and in 2003, a full 10 percent.

After hearing from numerous witnesses over 2 days, the board found no compelling reasons to delay implementation of the regulations. In her closing statement, Chairwoman Jacquelin E. Schafer summed up the portion of the hearing devoted to the zero emission mandate:

A number of witnesses said they didn't like or that it could, and I emphasize the word "could", stifle new ideas and technologies. But we heard from no one who claimed the mandate had not accomplished its stated objective of stimulating technological development and innovation. While electric vehicle and battery technology may not have advanced much between the turn of the century and the 1980's, there is no doubt that tremendous advancements have occurred since we adopted the zero emission vehicle regulation in 1990. We heard over and over again that the mandate caused or contributed to these advancements. I don't think we want to take any actions that would slow down or stall this progress.

Mr. President, neither should the Congress take any action that would slow this tremendous and exciting progress.

The decision to maintain the zero emission standards sends a clear message to the country that the clean fuel electric car, the only practical zero emission vehicle currently available, is on track. And it is great news for both the economy and the environment of my State of California.

Nothing less than the quality of life itself is at stake in California. Of the seven American cities with the highest ozone levels, six are in California. In testimony before CARB, the executive director of the South Coast Air Quality Management District, James M. Lents, said, without the full implementation of the low-emission vehicle mandate—including the zero emission vehicle mandate—there is no possibility of southern California ever attaining healthful air quality.

Success in cleaning up our air requires that we clean up the major sources of the pollution: cars, trucks, airplanes, and trains, which account for 70 percent of all carbon monoxide [CO] emissions. And by far the largest share of transportation pollution is from road vehicles.

Yes, Mr. President, automobile emissions have improved; despite a 96-percent increase in vehicle travel, highway carbon monoxide emissions were cut by 59 percent from 1970 to 1991. However, progress came only as a result of a strong push from government. The Environmental Protection Agency estimates that without the implementation of vehicle emission controls, carbon monoxide emissions from highway vehicles would have increased more than three times from 1970 to 1991.

Still, more than 90 percent of Californians live in areas which do not meet

Federal healthy air standards, and over two-thirds of this pollution comes from mobile sources. I was socked, Mr. President, to learn that children in the Los Angeles Basin, on average, suffer a 15-percent reduction in lung function by age 12 because of exposure to smog. These precious children are our most important investment in our future, but we are letting them down.

We must remove this poison at the tailpipe, and we can start by promoting the electric vehicle as a commuter car. According to the U.S. Bureau of Transportation Statistics, the average distance for commuters to travel to work is only 11.8 miles, and even in car-conscious southern California, the average daily commute is only 22 miles. So, despite having to recharge every 100 miles, the EV would make a great commuter car—the perfect second car in the more than half of all American households which own more than one car.

It has been argued that the battery technology for EV's is not sufficiently advanced, that the price of the vehicle is too high, and that there are not enough recharging stations. But the fact is that practical electric vehicles are available now. Recharging stations are going in now, and Californians are ready to buy environmentally sound cars now.

This is not a case of California versus Detroit, as some have suggested. California and Detroit in fact are natural partners in the development of electric cars. California has the aerospace expertise and other high-technology component manufacturing that is necessary in electric vehicle technologies.

Indeed, some of the best evidence that a market-ready electric vehicle will be ready by 1998 comes from the automakers. The Hughes Electric Vehicle Team, a General Motors division, helped engineer a marvelous, ground-up electric vehicle, the "Impact", in southern California. "Popular Mechanics" magazine, in a February 1994 cover story, said of the car: "GM's hard-charging Impact is practical, fun to drive and a master-stroke of engineering. *** Impact can deliver the goods—lively performance, acceptable range and reasonable price—with technology that exists right now."

This story offers clear proof that American engineering is producing a high-technology high-appeal electric vehicle right now. General Motors plans to put 50 Impacts on the road this summer for market testing, and the other automakers are also already turning out road-ready electric vehicles. Ford's electric Ecostar test fleet has logged more than 18,700 miles of in-use experience. The Ecostar's average range is 94 miles and its top speed is 70 miles per hour.

Consumers will buy electric cars if we provide the right incentives. GM's own survey in 1992 of 1,000 potential

new car buyers in San Francisco and Los Angeles found that the number of people who would definitely or probably purchase an electric vehicle increased from 17 to 68 percent if provided a mix of price and ownership incentives.

Under the 1992 Energy Act, Congress provided a Federal tax credit of 10 percent up to \$4,000 on the purchase of an electric vehicle and required an ambitious program of procuring clean fuel vehicles for the Federal fleet. President Clinton last year issued an Executive order that would more than double the alternative fuel vehicle purchases by the Federal Government between 1994 and 1997 for a cumulative total of 110,000 vehicles.

We can also remove one of the glaring inconsistencies in the Tax Code. Although the tax credit is available, the cost of providing this clean fuel technology could subject the vehicle to the luxury tax. Last week I introduced S. 2117, legislation to repeal the luxury tax on the value of components required for a vehicle to be powered by clean-burning fuel.

The Tax Code does not now distinguish between an automobile that exceeds the luxury tax cost threshold because of special equipment or performance characteristics and an automobile that exceeds the threshold solely because it operates on a nonconventional fuel source, such as electricity. Because of the new technologies involved and the lack of economies of scale in low volume production, initially the price of some EVs will exceed the luxury tax threshold. The luxury tax now threatens to deter purchase of EVs, and to delay EV market development efforts. S. 2117 will remove this disincentive.

I also hope that my colleagues will support the industry-government collaboration to place 5,000 EVs on the roads by 1997. If successful, this large-scale demonstration program, called "EV America," would help build a sustainable market for EVs in the United States.

EV America would utilize authorities of the Energy Policy Act, Public Law 102-486, title VI, subtitles A & B, to implement a partnership program between the private sector—led by the utility industry—and government to demonstrate electric vehicles and associated vehicle support systems. Phase I of EV America contemplates the placement of at least 500 EVs in government, utility and other commercial fleets nationwide by the end of 1995.

It is our hope that some of these vehicles could be placed with the National Park Service to demonstrate the clean-fuel and quiet characteristics of electric vehicles to a large number of Americans. Yosemite and Grand Canyon national parks, which have among the worse air quality of any national park, would also be excellent locations

for a full-scale electric vehicle demonstration program.

To date, 13 U.S. utilities have signed an agreement to undertake this 500-vehicle purchase and testing program, provided that the Federal Government agrees to share the costs of the program. Other utilities have expressed an interest in participating, and it is anticipated that they will become partners in the program, also.

The total cost of this first phase will amount to \$22 million for vehicle acquisition and 3-year support costs. We are requesting the Federal Government to supply 45 percent of the cost, with \$5 million from the Department of Energy and \$5 million from the fiscal year 1994 funding already provided to the Advanced Research Projects Agency for its EV/infrastructure demonstration program under the Department of Defense.

With consumer familiarity and acceptance of electric vehicles, and continued technological advancements and economies of scale, the incremental costs of electric vehicles will decrease. But the linchpin in this effort is California's zero emission requirement.

Setting the target date for the zero emission requirements has become the equivalent of President Kennedy's pledge to put a man on the moon in a decade. We can put a significant number of electric vehicles on the road sooner than that. For the sake of our future, for our children's sake, we must not stop now.●

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Tuesday, May 24; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM 12:30 P.M. TO 2:15 P.M.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 6:39 p.m., recessed until tomorrow, Tuesday, May 24, 1994, at 9 a.m.